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LEGISLATIVE HISTORY

Public Law 89-755
S. 985

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INDEX AND SUMMARY OF S. 985

Feb.	3, 1965	Sen. Hart introduced and discussed S. 985 which was referred to Senate Commerce Committee. Print of bill and remarks of author.
Apr.	14, 1965	Rep. Halpern introduced H. R. 7493 which was referred to House Interstate and Foreign Commerce Committee. Print of bill.
July	13, 1965	Sen. Hart spoke in support of S. 985.
May	16, 1966	Senate committee voted to report S. 985.
May	25, 1966	Senate committee was authorized to report S. 985 during adjournment. Made unfinished business. Sen. Mondale spoke in support of S. 985.
May	26, 1966	Senate committee reported S. 985 (on May 25 during adjournment) with an amendment. S. Report 1186. Print of bill and report.
June	1, 1966	Senate began debate on S. 985.
June	2, 1966	Senate continued debate on S. 985. Rep. Staggers introduced H. R. 15440 which was referred to House Interstate and Foreign Commerce Committee. Print of bill as introduced.
June	7, 1966	Senate continued debate.
June	8, 1966	Senate continued debate.
June	9, 1966	Senate continued debate, and passed S. 985.
June	13, 1966	S. 985 was referred to House Interstate and Foreign Commerce Committee. Print of bill.
Sept.	13, 1966	House committee tabled H. R. 15440.
Sept.	22, 1966	House committee voted to report H. R. 15440.
Sept.	26, 1966	House committee reported H. R. 15440 with an amendment. H. Report 2076. Print of bill and report.
Oct.	3, 1966	House passed S. 985 under suspension of the rules. H. R. 15440 was tabled due to passage of S. 985

INDEX AND SUMMARY OF S. 985, cont'd

Oct. 6, 1966 Senate conferees were appointed on S. 985.
Oct. 12, 1966 House conferees were appointed.
Oct. 14, 1966 House received conference report on S. 985.
H. Report 2286. Print of report.
Oct. 17, 1966 House agreed to conference report on S. 985.
Oct. 19, 1966 Senate agreed to conference report on S. 985.
Nov. 3, 1966 Approved: Public Law 89-755.

Hearings: H. committee hearings on H. R. 15440,
Part 1 and 2
S. committee hearing on S. 985.

DIGEST OF PUBLIC LAW 89-755

FAIR PACKAGING AND LABELING ACT. Declares it to be the policy of Congress to assist consumers and manufacturers in establishing packaging and labeling standards which enable consumers to obtain accurate information as to contents and to facilitate value comparisons.

Exempts meats, poultry, tobacco, alcoholic beverages, and certain drugs and seeds which are already under Federal law, from provisions of the Act.

Requires the Department of Health, Education and Welfare (the Food and Drug Administration) and the Federal Trade Commission to establish labeling standards requiring certain information on packages, but permits them to exempt certain commodities from mandatory requirements when full compliance is not necessary to adequately protect consumers. Allows FTC and FDA to establish additional regulations on a product upon finding it necessary in order to prevent deception, and directs the Department of Commerce to participate with industry in developing product standards. Provides an effective date of July 1, 1967, but permits HEW or FTC to postpone the effective date an additional year for any commodity when the postponement would be in the public interest.

S. 985

FEBRUARY 3, 1965

A BILL

1 (as defined by this Act) for distribution in commerce, or
2 for any person (other than a common carrier for hire, a
3 contract carrier for hire, or a freight forwarder for hire)
4 engaged in the distribution in commerce of any packaged or
5 labeled consumer commodity, to distribute or to cause to be
6 distributed in commerce any such commodity if such com-
7 modity is contained in a package, or if there is affixed to that
8 commodity a label, which does not conform to regulations
9 promulgated pursuant to this Act.

10 (b) The prohibition contained in subsection (a) shall
11 not apply to persons engaged in business as wholesale or
12 retail distributors of consumer commodities except to the
13 extent that such persons (1) are engaged in the packaging
14 or labeling of such commodities, or (2) prescribe or specify
15 by any means the manner in which such commodities are
16 packaged or labeled.

17 REGULATIONS TO BE PROMULGATED

18 SEC. 3. (a) As soon as practicable after the effective
19 date of this Act, regulations shall be promulgated to—

20 (1) require the net quantity of contents (in terms
21 of weight, measure, or count, or any combination there-
22 of) of consumer commodities to be stated upon the front
23 panel of packages containing such commodities, and upon
24 any labels affixed to such commodities;

25 (2) establish minimum standards with respect to

1 the prominence of statements of the net quantity of con-
2 tents (including minimum standards as to the type size
3 and face in which such statements shall be made) ap-
4 pearing upon packages containing any consumer com-
5 modity and upon labels affixed to any such commodity;

6 (3) prohibit the addition to such statements of net
7 quantity of contents of any qualifying words or phrases;

8 (4) specify such exceptions to the foregoing require-
9 ments as the promulgating authority may determine to be
10 required by the nature, form, or quantity of particular
11 consumer commodities, or by the customary mode of
12 display of any particular consumer commodity for retail
13 sale, except that no exception may be made if that ex-
14 ception would deprive consumers of reasonable oppor-
15 tunity to make rational comparisons between or among
16 competing products;

17 (5) prohibit the placement upon any package con-
18 taining such commodity, or upon any label affixed to
19 such commodity, of any printed matter stating or repre-
20 senting by implication that such commodity is offered
21 for retail sale at a price lower than the ordinary and
22 customary retail sale price, or that a retail sale price
23 advantage is accorded to retail purchasers thereof by
24 reason of the size of that package or the quantity of its
25 contents, except that no regulation promulgated under

1 this section shall prevent any person while engaged at
2 any time in the sale of any consumer commodity at
3 retail to ultimate purchasers thereof from placing upon
4 any such commodity, or upon any package containing
5 that commodity, any marking pertaining to the retail
6 sale price of that commodity; and

7 (6) prevent the placement, upon any package in
8 which such commodity is distributed for retail sale, of
9 any illustration or pictorial matter which is likely to
10 deceive retail purchasers in any material respect as to
11 the contents of that package.

12 (b) (1) Regulations under this section shall be promul-
13 gated by—

14 (A) the Secretary of Health, Education, and Wel-
15 fare (referred to hereinafter as the “Secretary”), with
16 respect to any consumer commodity which is a food,
17 drug, device, or cosmetic, as each such term is defined
18 by section 201 of the Federal Food, Drug, and Cosmetic
19 Act (21 U.S.C. 321) ; and

20 (B) the Federal Trade Commission (referred to
21 hereinafter as the “Commission”) with respect to any
22 other consumer commodity.

23 (2) Such regulations adopted by the Secretary and by
24 the Commission shall be uniform in content and application

1 to the greatest practicable extent, as determined by consul-
2 tation between the Secretary and the Commission.

3 (c) Whenever the Secretary (as to any food, drug,
4 device, or cosmetic), or the Commission (as to any other
5 consumer commodity) determines that additional regulations
6 are necessary to establish or preserve fair competition be-
7 tween or among competing products by enabling consumers
8 to make rational comparison with respect to price and other
9 factors, or to prevent the deception of consumers as to such
10 product, the Secretary or the Commission, as the case may
11 be, shall promulgate under this subsection with respect to that
12 commodity regulations effective to—

13 (1) establish reasonable weights or quantities, or
14 fractions or multiples thereof, in which that commodity
15 shall be distributed for retail sale, except that no such
16 regulation may be inconsistent with standards prescribed
17 by the Secretary of Commerce before the effective date
18 of this Act with regard to the sizes of containers used
19 for the retail sale of any commodity, and no weights
20 and measures shall be established in amounts of less
21 than two ounces;

22 (2) prevent the distribution of that commodity for
23 retail sale in packages of sizes, shapes, or dimensional

1 proportions which are likely to deceive retail purchasers
2 in any material respect as to the net quantity of the
3 contents thereof (in terms of weight, measure, or
4 count), except that where reasonable weights and
5 measures have been established pursuant to the provi-
6 sions of paragraph (1) of this subsection such regula-
7 tions may not proscribe the use of package shapes which
8 have been designed to exploit the unique advantages of
9 any material for use in the production of packages of
10 distinctive appearance;

11 (3) establish and define standards of designations of
12 size (other than statements of net quantity of contents)
13 which may be used to characterize quantitatively the
14 contents of packages containing that commodity;

15 (4) establish and define the net quantity of any
16 commodity (in terms of weight, measure, or count)
17 which shall constitute a serving, if that commodity is
18 distributed to retail purchasers in a package or with a
19 label which bears a representation as to the number of
20 servings provided by the net quantity of contents con-
21 tained in that package or to which that label is affixed;

22 (5) establish and define standards for the quantita-
23 tive designation of the contents of packages containing
24 any consumer commodity of a kind the net quantity of

contents of which cannot meaningfully be designated in terms of weight, measure, or count; and

(6) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended) that sufficient information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed in a prominent position upon packages containing that commodity and upon labels affixed thereto.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 4. (a) Before promulgating any proposed regulation under section 3 with respect to any consumer commodity, the Secretary or the Commission, as the case may be, shall (1) consult with other agencies of the Government having special competence with respect to the subject of that regulation concerning the scope, application, form, and effect thereof, (2) publish in the Federal Register reasonable advance notice of intention to promulgate such regulation, and (3) accord to persons who would be affected thereby reasonable opportunity for consultation with respect to such proposed regulation.

(b) All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Ad-

1 ministrative Procedure Act. No regulation shall be promul-
2 gated for any purpose described in section 3 (c) of this Act
3 unless a public hearing has been conducted and opportunity
4 for review has been accorded in conformity with the provi-
5 sions of sections 7 and 8 of the Administrative Procedure
6 Act.

7 (c) Any regulation promulgated under this Act may be
8 modified by the promulgating authority, upon the initiative
9 of that authority or upon application made by any person
10 affected by that regulation, whenever such authority deter-
11 mines that such modification is necessary to conform to the
12 requirements of this Act or to any change occurring in the
13 method of packaging, labeling, distributing, or marketing of
14 any consumer commodity.

15 (d) No regulation adopted under this Act shall take
16 effect until a reasonable period of time (as determined by
17 the Secretary or the Commission, as the case may be) has
18 passed after the promulgation thereof to permit persons af-
19 fected thereby to effectuate compliance with the provisions
20 of such regulation.

21 (e) In carrying into effect the provisions of this Act,
22 the Secretary and the Commission are authorized to coop-
23 erate with any department or agency of the United States,
24 with any State, Commonwealth, or possession of the United

1 States, and with any department, agency, or political subdi-
2 vision of any such State, Commonwealth, or possession.

3 ENFORCEMENT OF REGULATIONS

4 SEC. 5. (a) Upon written request made, by the officer
5 or agency authorized or directed by this Act to establish
6 packaging or labeling regulations as to any consumer com-
7 modity of any class or kind, to any producer or distributor
8 of such consumer commodity, such producer or distributor
9 shall transmit promptly to that officer or agency a true
10 and correct sample of each package and label used by that
11 producer or distributor for or in connection with the dis-
12 tribution in commerce of any particularly described consumer
13 commodity of that class or kind. Any person who fails to
14 transmit any such sample to such authority within twenty
15 days after receipt of such request shall be subject to a civil
16 penalty of not more than \$1,000 for each day of the con-
17 tinuance of such failure, except that the amount of such
18 penalty may be compromised by such authority before the
19 final determination of action for the recovery thereof. Such
20 forfeiture shall be recovered in a civil action brought in the
21 name of the United States in the district court of the United
22 States for any judicial district in which such person resides,
23 does business, or is found. Upon demand made by the de-
24 fendant before the trial of any such action upon its merits,

1 the defendant shall be entitled to have any issue of fact
2 with respect to such failure determined by a jury.

3 (b) Any consumer commodity introduced or delivered
4 for introduction into commerce in violation of any regulation
5 promulgated by the Secretary of Health, Education, and
6 Welfare under this Act while that regulation is in force and
7 in effect shall be deemed to be misbranded within the
8 meaning of chapter III of the Federal Food, Drug, and
9 Cosmetic Act, but the provisions of section 303 of that
10 Act (21 U.S.C. 333) shall have no application to any
11 violation of any such regulation.

12 (c) Any violation of any regulation promulgated under
13 this Act by the Federal Trade Commission while that regula-
14 tion is in force and in effect shall constitute an unfair or
15 deceptive act or practice in commerce in violation of section
16 5 (a) of the Federal Trade Commission Act. The remedies
17 provided by sections 4, 4A, and 16 of the Act entitled "An
18 Act to supplement existing laws against unlawful restraints
19 and monopolies, and for other purposes", approved October
20 15, 1914 (38 Stat. 730, as amended; 15 U.S.C. 15, 15a, and
21 26), commonly known as the Clayton Act, shall not be
22 available to any person threatened with loss or damage, or
23 injured in his business or property, by any violation of any
24 such regulation under this Act.

REPORTS TO THE CONGRESS

SEC. 6. Each officer or agency required or authorized by this section to promulgate regulations for the packaging or labeling of any consumer commodity shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding calendar year.

COOPERATION WITH STATE AUTHORITIES

SEC. 7. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal standards for the packaging and labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

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SEC. 8. As used in this section—

(1) The term “commerce” has the meaning given thereto by section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

(2) The term “consumer commodity”, except as otherwise specifically provided by this paragraph, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act) and any other article or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include (A) any meat, meat product, poultry, or poultry product, (B) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin

1 Act; (C) any beverage subject to or complying with
2 packaging or labeling requirements imposed under the
3 Federal Alcohol Administration Act (27 U.S.C. 201
4 et seq.) ; or (D) any commodity subject to the pro-
5 visions of the Federal Seed Act (7 U.S.C. 1551-1610).

6 (3) The term "package" means any container or
7 wrapping in which any consumer commodity is enclosed
8 for use in the delivery or display of that commodity to
9 retail purchasers thereof, but does not include (A)
10 shipping containers or wrappings used solely for the
11 transportation of such commodity in bulk or in quantity
12 to wholesale or retail distributors thereof, (B) shipping
13 containers or outer wrappings used by retailers to ship
14 or deliver such commodity to retail customers if such
15 containers and wrappings bear no printed matter per-
16 taining to any particular commodity, or (C) containers
17 subject to the provisions of the Act of August 3, 1912
18 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the
19 Act of March 4, 1915 (38 Stat. 1186, as amended;
20 15 U.S.C. 234-236), the Act of August 31, 1916 (39
21 Stat. 673, as amended; 15 U.S.C. 251-256), or the
22 Act of May 21, 1928 (45 Stat. 685, as amended; 15
23 U.S.C. 257-257i).

24 (4) The term "label" means any written, printed,
25 or graphic matter affixed to any consumer commodity.

1 (5) The term "person" includes any firm, corpora-
2 tion, or association.

3 SAVING PROVISION

4 SEC. 9. Nothing contained in this Act shall be construed
5 to repeal, invalidate, supersede, or otherwise adversely
6 affect—

7 (a) the Federal Trade Commission Act or any
8 statute defined therein as an antitrust Act;

9 (b) the Federal Food, Drug, and Cosmetic Act;

10 (c) the Hazardous Substance Act; or

11 (d) any provision of State law which would be
12 valid in the absence of such amendment unless there
13 is a direct and positive conflict between such amendment
14 in its application to interstate or foreign commerce and
15 such provision of State law.

16 EFFECTIVE DATE

17 SEC. 10. This Act shall take effect on the first day of
18 the sixth month beginning after the date of enactment of
19 this Act.

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

By Mr. HART, Mr. BARTLETT, Mr. CLARK, Mr. DOUGLAS, Mr. KENNEDY of New York, Mr. LONG of Missouri, Mr. MCINTYRE, Mr. MCNAMARA, Mr. MERCALF, Mr. MONDALE, Mr. MUSKIE, Mrs. NEUBERGER, and Mr. RIBICOFF

FEBRUARY 3, 1965
Read twice and referred to the Committee on
Commerce

ciple is now being given the heave-ho treatment.

With those who left their limbs and lives and hopes and dreams in the remote battlegrounds of the earth, we should never break faith.

To those who abandoned their jobs, their education, their security, in order that our liberties might remain safe, we have a solemn duty.

It is not a duty to close hospital doors, but rather to open them. It is not a duty to delay the handling of their just claims, but to expedite them. It is not a duty to injure, but instead to promote their welfare.

That is a duty I as one Senator mean to fulfill to the best of my ability.

Only a few short days ago I was told by a representative of the Veterans' Administration that no hospital can function well unless it gets to the 400 or 500 bed level.

Did he really mean to suggest that the hundreds of hospitals throughout this country with small bed capacities are performing useless services? Let him peddle this ridiculous theory to the thousands of citizens whose lives have been spared and who can walk and talk again because of the treatment they received at the small hospitals he so blatantly ridicules.

If gigantic hospitals are the one and the only type of installation worth while, why then did the present administration fail to say this when the Hill-Burton program was under consideration?

I will tell Senators why. It did not say so because it knew that it would be laughed down by every small community in this country. And it is saying so now only because it is desperate to find some justification for a drastic program of curtailment of service to veterans that was conceived in ignorance, born of misinformation, and which, with good fortune, will die because of the wisdom of Congress.

I urge the Senate to support the amendment.

Mr. YARBOROUGH. Mr. President, on January 13, 1965, the date when I was notified of the Veterans' Administration's decision to close 11 hospitals, 4 domiciliaries, and several regional offices, the machinery to phase out these facilities had already been set in motion. Of course, I had heard rumors to that effect, but I do not believe that a Senator should base his actions on rumor. Yet, in the hearings which have just been held before my Subcommittee on Veterans' Affairs, we were informed by Veterans' Administration officials that they felt it only fair to formally notify us of this action on January 13, because rumors were spreading.

This poses an interesting question, Mr. President: Just when would we have been notified, if rumors had not prompted the Veterans' Administration to tell us as late as January 13 of its action? We were not consulted beforehand; neither were veterans organizations consulted. Are the Senators of the United States, given the trust to see that the laws and mandates of Congress are followed, now relegated to a position of hearing by rumor about a star chamber

decision which we witness only when we finally see our Veterans' Administration hospitals being phased out of existence?

Mr. President, in light of the importance of medical care for the veterans of this Nation, a decision which could adversely affect them should not be arrived at lightly. Because of this, our Veterans' Affairs Subcommittee has just completed hearings during which at least 30 of my fellow Senators voiced suspicions about the wisdom of this decision. I understand that the House committee is planning to conduct similar hearings. Since our action on this matter was forced to be "after the fact," due to lack of notification and consultation, it will take time before we can reach conclusions on these closings.

Yet, the secrecy and rapidity of this transition has raised such a cloak of suspicion about the Veterans' Administration decision that something must be decided now, or else we shall again be considering such matters "after the fact." In light of this situation, Mr. President, I think it in the interests of the veterans and the general public that this action be held in abeyance until conclusions can be reached. If it is a sound program, it can justify itself at any time; if it is not sound, then much will be lost by having it completed before effective objections can be raised. For this reason, I am supporting the amendment proposed by the Senator from South Dakota [Mr. MUNDT].

Mr. KENNEDY of New York. Mr. President, I strongly support the amendment to prevent the Veterans' Administration from utilizing its present appropriation for the purpose of closing veterans' hospitals. The veterans of this country deserve the service which the veterans' hospitals provide them, and I am convinced that the VA's action in announcing the closings is inconsistent with that need. My examination of the facts concerning Sunmount, Bath, and Castle Point hospitals in New York has convinced me that these hospitals should remain open. The facts show that they are not obsolete, that they are not difficult to staff, and, most important, that they serve a definite need. The brief chance which I had to question the officials of the VA in the hearings of the Subcommittee on Veterans' Affairs demonstrated the need for the kind of full and free inquiry which the present amendment will give us time to undertake.

Mr. SIMPSON. Mr. President, I would like to stand in support of Senator MUNDT's amendment as it pertains to the Veterans' Administration facilities. It is my sincere belief that the whole story regarding the closing of Veterans' Administration facilities over the United States and particularly in my State of Wyoming has not been heard.

I want to emphasize my distress concerning the manner in which this matter was handled. A matter of this importance should warrant previous consultation with Members of Congress, the service organizations, and the veteran himself. I believe only shortsighted consideration of possible immediate savings dictated the orders to close. The

many other conditions of service to veterans and short- and long-range additional costs to other State and Federal agencies were ignored.

The statement announcing the action taken to close the Veterans' Administration facilities mentions economy as one of the prime reasons for the proposed move. It is stated there will be a net savings of some \$23,500,000 through this action. The relatively insignificant so-called savings of \$23,500,000 in the fiscal year 1966 at the expense of the many services in so many widely separated places will make no real contribution to the President's social program which is projected in billions of dollars annually.

I am particularly concerned because of the effect of the proposed action on the veterans of my State of Wyoming. The contemplated action of the Veterans' Administration would move the major function of the Cheyenne veterans regional office to Denver, Colo. I am informed that of the 34 present employees, approximately 20 will be involved in the move. The case load being handled by the Cheyenne Veterans Center has increased and not decreased. Therefore, it is inconceivable to me how less than half a staff could handle the work being done by a full staff. It cannot be done and give the service the veterans and their dependents so justly deserve and were promised.

During the hearings before the Subcommittee on Veterans' Affairs of the Senate Committee on Labor and Public Welfare, it was stated by officials of the Veterans' Administration that additional funds will be requested for new and additional facilities. I oppose the shifting and not the sifting of Government appropriated funds.

In his budget message submitted to the Congress, President Johnson states:

Our major emphasis in veterans programs should be concentrated on meeting fully our obligation to those who were disabled in the defense of the country and to their dependents and survivors.

I say "Amen" to this statement. However, since contrary action is contemplated by the Administration, in the words of one of the greatest statesmen of the 20th century, the late Sir Winston Churchill, I strongly urge the Members of this Senate, "to prevent them from putting the folly they speak of into action."

I fully support the amendment and urge my colleagues to do the same.

Mr. McGOVERN. Mr. President, I congratulate my colleague from South Dakota [Mr. MUNDT] and the Senator from New Mexico [Mr. ANDERSON] on their amendment which would postpone action on the closing of Veterans' Administration facilities until Congress has had an opportunity to review the subject. The veterans and their representatives have a right to a full and careful hearing on this important matter. I hope that the Senate will adopt the amendment in the interest of my fellow veterans.

Mr. JAVITS. Mr. President, I would like to express my strong support of the Senator from South Dakota's amendment to restrain the unwise closing of Vet-

erans' Administration facilities. In New York, the effective hospitals at Sunmount, Bath, and Castle Point have been performing essential medical services for the veterans in the surrounding communities. Closing of these facilities, as well as consolidation of operational regional offices of the Veterans' Administration located in major cities in my State will impose an unjustified hardship on the veterans in New York. The hard facts forming the basis for this decision and others have not been developed. I believe it is absolutely necessary that the burden of proof for the closing of these important medical facilities and the resulting reduction in services be squarely met by the proponent, namely the Veterans' Administration. Until this full justification in the name of economy is set forth on the record and properly reviewed, these unwise closings should not be carried out.

The alleged savings set forth in the record of hearings by the Finance Committee on the nomination of Mr. Driver and on the subject of the closings by the Labor and Public Welfare Committee have not been explained in sufficient detail, and we should not accept these closings without receiving a further explanation of the reasons. I sent a telegram to VA Administrator Driver on the day he announced the closing of these facilities, asking for a justification for the plan to close then by June 30 of this year. I have still not seen a full and detailed justification. I urge the adoption of this amendment.

Mr. MUNDT. Mr. President, it seems to me that many Senators would be inconvenienced by having a voice vote this late in the evening instead of a yea-and-nay vote. Many Senators desire to leave soon.

I should like to have the assurance and understanding, however, that the conferees will consider such a voice vote as important a mandate to sustain the amendment if it is adopted by a strong voice vote as if it were actually adopted by a yea-and-nay vote.

Mr. HOLLAND. Mr. President, on this amendment, I ask for a division.

On a division, the amendment was agreed to.

Mr. MANSFIELD. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. MUNDT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 234) was read the third time, and passed.

Mr. HOLLAND. Mr. President, I move that the Senate reconsider the vote by which the joint resolution was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I move that the Senate insist on its amendments, and request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HOLLAND, Mr. HAYDEN, Mr. RUSSELL, Mr. ELLENDER, Mr. HILL, Mr. PASTORE, Mr. SALTONSTALL, Mr. YOUNG of North Dakota, and Mr. MUNDT conferees on the part of the Senate.

Mr. MORSE. Mr. President, I hope that Senators have noted how much business has been transacted today without the use of a unanimous-consent agreement. If there had been a unanimous-consent agreement, the talk in the cloakroom is to the effect that the Senate would have voted on the measure some time tomorrow afternoon.

I shall continue to object to unanimous-consent requests.

SPECIAL MILK PROGRAM

Mr. JAVITS. Mr. President, with further reference to the legislation we have just acted upon, as my colleagues know, New York State is the second largest producer of class I fluid milk in the country. I am, therefore, very much concerned over the reduction in funds in the administration's budget for the vital special milk program, funds for which are included in this bill. The 1966 budget request for this program is \$100 million, while the fiscal year 1965 appropriation was \$103 million. Senator HOLLAND, the chairman of the Agricultural Appropriations Subcommittee, the senior Senator from Wisconsin [Mr. PROXMIRE], along with many other interested Senators, have worked to insure that sufficient funds have been provided each year for this essential program. I want to assure the distinguished Senator from Florida and my colleague from Wisconsin that I shall continue to work just as hard as in the past to insure that necessary funds for the special milk program are included in this year's Department of Agriculture appropriation bill. The record of committee hearings on House Joint Resolution 234 reveals that the fiscal year 1965 estimate of realized losses for the special milk program is \$305 million. I would like to make it clear that any reduction in funds for this program would not only impose a penalty on low-income families, but might also end up in losses for the Government if purchases of surplus milk were necessary at 75 percent of parity.

I hope that the Appropriations Committee will do all possible to insure that sufficient funds for the special milk program are provided in the fiscal year 1966 agricultural appropriation bill.

ORDER OF BUSINESS

Mr. DIRKSEN. Mr. President, if I may have the attention of the Senate, I should like to query the majority leader as to the order of business.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, there will be minor items considered tomorrow.

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this evening, it stand in adjournment until 12 o'clock noon tomorrow. It is then our intention to go over from tomorrow until 12 o'clock noon on Monday, next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF LIST OF COSPONSORS OF S. 948

Mr. WILLIAMS of New Jersey. Mr. President, due to an inadvertence, the following distinguished Senators were omitted as cosponsors of S. 948 which I introduced yesterday: Senators YOUNG of Ohio, RANDOLPH, MONDALE, SCOTT, MCCARTHY, BURDICK, HART, KENNEDY of New York, DOUGLAS, RIBICOFF, MCGOVERN, NELSON, CASE, KUCHEL, GRUENING, PASTORE, and MORSE.

Mr. President, I ask unanimous consent that their names be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

TRUTH IN PACKAGING

Mr. HART. Mr. President, today I reintroduce legislation which has come to be labeled the truth-in-packaging bill. I do this on behalf of myself and Senators BARTLETT, DOUGLAS, LONG of Missouri, McNAMARA, METCALF, MONDALE, MUSKIE, and NEUBERGER, and ask that the bill be appropriately referred.

It seems superfluous to take time now to argue the pros and cons of this bill. These are stated eloquently in six volumes of hearings held on the general topic. And this is the third time the bill has been introduced so its intent and provisions are no strangers to my colleagues.

Since the first hearings on packaging and labeling practices were held by the Senate Antitrust and Monopoly Subcommittee in 1961, many changes have taken place in our supermarkets which some would credit as benefits brought about by the very existence of congressional interest. The changes are praiseworthy. But to those who would cite these improvements as evidence of the lack of need for enactment of the bill, I would cite in reply these facts:

First. Consumers who must fight the battle of the budget weekly in the supermarket are not convinced that the few improvements have come anywhere near correcting all the practices the bill is aimed at. Witness to this are the hundreds of letters I have received in recent weeks from every State in the Union—from economists, marketing professors, and from the lady known as the smartest shopper in the world, the American housewife.

Second. President Johnson still believes the bill is necessary—as witness his

economic report to the Congress of last week. He said:

Informed consumer choice among increasingly varied and complex products requires frank, honest information concerning quantity, quality, and prices.

He added:

Truth in packaging will help to protect consumers against product misrepresentation.

Third. The Council of Economic Advisers also sees a need for the bill. The Council said:

All too often * * * consumers are not completely informed about products available and sometimes products are misrepresented, whether by accident or intent. Most of the responsibility for providing consumer information rests with private producers and retailers. But where the consumer is not able to obtain honest information, the Government has a role to fulfill.

The Council continued:

Abuses have become acute in the packaging of products sold in retail establishments. In today's marketing system, the package has become the silent salesman. The truth-in-packaging bill would assure consumers of simple, direct, visible, and accurate information as to the nature of the product and the quantity in the package.

Fourth. One of the major concerns of the Congress these days is how to help those Americans who are suffering along on extremely low annual incomes. One expert estimates that the average family could utilize this bill to save approximately \$250 yearly. That, I point out, would add more to the average worker's budget than a 10-cent-an-hour raise.

Mr. President, one more point should be mentioned in regard to this bill. One of the areas of concern about the bill as previously drafted was that it was proposed as an amendment to the Clayton Act. Some objected to this. These objections have been considered and this session we introduce the bill as a new law.

A few other minor changes have been made in the bill reacting to arguments against the previous bill which seemed to have substance.

Mr. President, I ask unanimous consent that this bill lie on the table for 1 week in order to give additional Senators who wish to cosponsor the opportunity to do so.

Mr. DIRKSEN. Mr. President, reserving the right to object, I do not think it is necessary to ask unanimous consent under the circumstances. But, I wish to be heard on the matter of reference of this bill to the Committee on Commerce.

The bill has been before the Committee on the Judiciary. We have heard more than 80 witnesses over a period of 2 or more years. I shall probably address myself to the order of reference on tomorrow.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, it is my understanding that the bill, in view of this comment, will lie over, in any event, for 1 day. Is that not correct?

The PRESIDING OFFICER. Is there a request that the bill lie on the desk until tomorrow?

Mr. HART. Mr. President, the bill has been introduced with the request that it be appropriately referred and that it be held at the desk for 1 week in order that additional cosponsors may join.

Mr. DIRKSEN. Mr. President, let the RECORD show my reservation of objection. I have no objection to its lying on the table for a week. But I do have objection to its reference. I wish to address myself to that question later.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, under the rule, the bill would lie over for 1 day before reference. But, is it correct that the additional request that it be held for 1 week at the table does not affect the reference to committee?

I ask that in view of the usual language, which I note in connection with bills. When request has been made that they lie over for more than 1 day, reference is made to the fact that the bill nonetheless remains at the desk.

The PRESIDING OFFICER. Under the rule, of course if objection is heard, the bill could not be received today. It would have to lie over.

Mr. DIRKSEN. Mr. President, I have no objection to the presentation of the bill today. The distinguished Senator from Michigan has uttered some advance information on this matter. Therefore, I would have no objection. But, I do not want the reference to be made to the Committee on Commerce until I have been heard.

With that understanding, I would have no objection.

Mr. President, I ask unanimous consent that the bill be kept at the desk for a day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, reserving the right to object, and for clarity only, are we to understand that the question of reference will recur tomorrow?

The PRESIDING OFFICER. Under the unanimous-consent agreement, the reference would be held over until tomorrow, and the question could then be raised.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

ADDITIONAL BILLS INTRODUCED

Mr. HART (for himself, Mr. BARTLETT, Mr. DOUGLAS, Mr. LONG of Missouri, Mr. McNAMARA, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, and Mrs. NEUBERGER), introduced a bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, which, by unanimous consent, was ordered to lie on the table.

The following additional bills were introduced, read the first time, and by

unanimous consent, the second time, and referred, as follows:

By Mr. WILLIAMS of New Jersey:

S. 986. A bill for the relief of Stevan Akocs, his wife, Rozalija Akocs, and their children, Carlos Akocs and Jorge Akocs; to the Committee on the Judiciary.

S. 987. A bill to reduce the excise tax on club dues and fees from 20 to 10 percent; to the Committee on Finance.

ADJOURNMENT

Mr. LONG of Louisiana. Mr. President, I move, under the order previously entered, that the Senate now stand in adjournment until 12 o'clock tomorrow.

The motion was agreed to; and (at 7 o'clock and 26 minutes p.m.) the Senate adjourned, under the previous order, until tomorrow, Thursday, February 4, 1965, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 3, 1965:

IN THE ARMY

The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

To be colonel, Medical Service Corps

Frick, Edward H., O31160.

The following-named officer for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3299:

To be major

Brown, Richard M., O61086.

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

To be first lieutenants

Adams, Charles L., O95417.

Adams, Charles W., O97075.

Adams, William E., O96559.

Affourtit, Rene J., O92870.

Allison, William C., O92873.

Amick, Robert L., Jr., O92874.

Anderson, Bobby L., O95421.

Anderson, Jerome F., O95422.

Armstrong, Marvin C., Jr., O92883.

Arrington, Robert D., O96306.

Askins, William M., O96562.

Banks, Gary G., O96310.

Barber, Don W., O92895.

Bartlett, Harvey S., 2d, O96312.

Beagle, Norman L., O95119.

Beauchamp, Ramar K., O95434.

Beeman, Richard C., O99575.

Belanich, Joseph F., Jr., O92917.

Biggs, Danny J., O92935.

Bitler, William D., O92945.

Boggs, Carl A., Jr., O96323.

Bohls, Robert J., O95445.

Bond, Richard R., O88324.

Borneman, Edward L., O99795.

Bowers, George W., O92971.

Brewer, Charles R., O92983.

Brown, Billy C., O99799.

Brown, Keith I., O92896.

Brown, Reginald J., O93590.

Brown, Robert W., O95454.

Brownlee, Romie L., O95455.

Bruce, Gene D., O93007.

Bruington, Ray D., O95457.

Brumfield, Wetzel D., O93009.

Bunton, Terry R., O93016.

Burke, Larry K., O95461.

Burlingame, John C., O95462.

Burtner, James R., O95464.

Butts, Samuel J., O96336.

Byrne, William F., O93055.

Campbell, David B., O93122.

- Cappadona, Louis A., Jr., O94515.
 Carter, James E., Jr., O95472.
 Christopher, George L., O91173.
 Coleman, Alan B., O93156.
 Collins, Michael D., O95478.
 Colson, David A., O93161.
 Cone, Edward E., Jr., O93162.
 Conner, Dan A., O93628.
 Cook, Ronald B., O91335.
 Cooper, Nelson J., O99495.
 Corder, Joseph W., Jr., O97294.
 Cote, Thomas G., O95483.
 Counts, Ronald W., O99806.
 Couture, John F., O93183.
 Coy, Dale E., O93185.
 Crane, James P., O95487.
 Crockett, James R., O96352.
 Crow, Stuart J., O99632.
 Crowe, Charles E., O96354.
 Davis, David L., O96758.
 Davls, Joseph S., 2d, O95495.
 Davls, Motler DuQ., Jr., O96359.
 Dempster, Robert J., Jr., O96361.
 DeWalt, Robert M., O95500.
 Dill, Paul H., O99818.
 Dinger, Timothy S., OF100258.
 Dodson, Billie R., O93251.
 Dondlinger, Jerome C., O99819.
 Dorsey, James J., O96755.
 Dunnington, Joseph C., O93277.
 Durenberger, George M., Jr., O95510.
 Dye, Preston C., O99829.
 Eddy, Thomas F., O99831.
 Elan, John N., O91718.
 Elliott, David R., O99834.
 Emge, William P., O96372.
 Erway, Douglas K., O93301.
 Eveleth, Robert G., O93687.
 Farris, James L., O93320.
 Ficalora, Paul B., O93338.
 Firestone, Terry J., O93340.
 Fisher, Donald J., OF100267.
 Flemling, Roger S., O99644.
 Frater, Arthur W., OF100269.
 Freeman, Malcolm A., O99844.
 Garner, John E., Jr., O96381.
 Gerhardt, William F., O96384.
 Gerst, Jackson C., Jr., O96385.
 Gorman, Thomas, O97772.
 Goulet, Donald J., OF101815.
 Grindell, Chelsey V., O99854.
 Gudat, Frank F., O95544.
 Guinn, Jack L., O93468.
 Gulnn, William A., O95545.
 Hagenhoff, Stanley R., OF100377.
 Hahn, Wade E., O93472.
 Haigler, Thomas E., Jr., O96392.
 Halbritter, Frederick P., O94811.
 Hale, William R., O93479.
 Hall, Dennis C., O95548.
 Hall, Thomas F., Jr., O93489.
 Hamina, Robert K., O95549.
 Hannan, William T., Jr., O92384.
 Hansen, David G., O99857.
 Harrison, David A., O99860.
 Harrison, Phillip T., O93527.
 Hartman, Benjamin C., Jr., O96395.
 Hatch, George S., O94035.
 Havlu, Don R., O99328.
 Hawley, Gary D., O91734.
 Heer, Bernard C., Jr., O94050.
 Heinschel, Robert F., O94062.
 Hendrix, Paul V., O94077.
 Henry, Noah W., 3d, O94093.
 Henson, Charles W., O95556.
 Hicks, Billy W., O94125.
 Highfill, Gary W., O94129.
 Hilger, Charles N., O96559.
 Hinds, Paul T., O94137.
 Hines, Charles A., O94153.
 Hintz, Norman C., O95560.
 Hittl, John L., Jr., O99872.
 Hobbs, Gary L., O94164.
 Holcomb, Cecil B., Jr., O96409.
 Holland, James R., O94178.
 Hood, Brian C., O93202.
 Horowicz, Richard E., OF100286.
 Howard, John W., O94181.
 Howard, Robert P., O94692.
 Hurst, Curtis C., O95566.
 Huser, Herbert C., O94185.
 James, Arthur M., O95571.
 Jarock, Norman F., O99885.
 Jemison, Paul O., O96415.
 Johnson, Charlton G., Jr., O89369.
 Johnson, Thomas G., O91813.
 Joiner, Robert E., 3d, O95579.
 Jones, Donald H., O94908.
 Jones, Malcolm W., OF100295.
 Kallay, Michael T., OF100492.
 Kingman, Dan C., Jr., O95583.
 Kirby, Rance A., OF100523.
 Kish, Joseph P., O99264.
 Klitchings, Phillip, Jr., O96425.
 Kobaly, George, Jr., O96426.
 Koelsch, Raymond E., O95590.
 Konopka, Thomas, O95591.
 Kopcsak, George C., O95348.
 Krebs, Joseph G., O99897.
 Kuster, Bernard A., Jr., O95595.
 Landrum, Benson F., O94363.
 Larkins, John G., O95598.
 Larson, Kermit E., Jr., O94369.
 LaRue, Lowell G., O91996.
 Lasecki, Ronald P., O94371.
 Lee, Robert C., OF100307.
 Leffler, Samuel A., O95600.
 Leonard, William E., O93268.
 Leonhardt, Thomas C., O94540.
 Lewis, Bobby J., O95601.
 Livingston, John J., OF100878.
 Long, William H., O99682.
 Lopez-Alonso, Juan R., O94212.
 Luallin, John S., OF100202.
 Lundy, James I., O94628.
 Lunsford, Mirt S., Jr., O99683.
 Lybrand, Charles W., O95608.
 Mabry, David L., O95611.
 MacIntosh, Eric I., OF100311.
 Maher, Patrick J., O92670.
 Maier, Nelson H., Jr., O94686.
 Maksimowski, Richard J., O92672.
 Markiewicz, Joseph, O92014.
 Martin, Robert F., O99913.
 Mason, Keith L., O94776.
 Mason, Ralph A., Jr., OF100313.
 Mason, Tommy R., O94789.
 Mathern, Vernon J., O96439.
 Matteson, Stephen C., O99914.
 Matthews, Daryl B., O96440.
 Maurer, George H., O94809.
 Mayer, John H., OF100314.
 Mayoras, Donald E., O94810.
 McCoy, Ronald L., O96444.
 McDowell, Thomas D., O96447.
 McFarland, Lewis G., O94825.
 McFerron, Darrel A., O94829.
 McGregor, William L., Jr., O95622.
 Meyer, Richard A., O97679.
 Meyer, Robert W., O95628.
 Miles, Donald F., O95630.
 Miller, Robert L., O94821.
 Mitchell, David G., O92720.
 Moore, Calvin B., O95635.
 Mottl, Richard J., OF100320.
 Myer, Allan A., O99934.
 Napier, Joseph S., O92071.
 Napierkowski, Raymond J., O95644.
 Neal, Clarke L., O99698.
 Neisess, James A., O91237.
 Newman, Harold M., O96460.
 Newman, Ralph E., O95128.
 Newman, William F., O95129.
 Nolan, Donny R., O95645.
 Oberholzer, John A., O95135.
 Olive, Sergei V., O93871.
 Olson, Raymond S., OF100324.
 Oswald, Robert W., O95142.
 Oualline, Charles E., O95143.
 Owens, John V., O99701.
 Paul, Leroy W., O96607.
 Pendergrass, Larry L., O99376.
 Perrin, William H., OF100330.
 Pierce, Edward D., O96474.
 Pierce, Robert V., OF100994.
 Pippin, James D., O96477.
 Portmann, Joslyn V., O95163.
 Powell, Paul E., O95166.
 Price, Carl N., OF100333.
 Pryor, Robert W., O99960.
 Queen, Charles E., O95169.
 Quinlan, John L., 3d, O95663.
 Raines, Austin M., O95171.
 Randt, Richard C., O99962.
 Ray, David E., O99364.
 Redner, Paul C., O99964.
 Reed, James L., O95177.
 Remling, Arthur A., 2d, O95183.
 Renigar, Frederick H., O95185.
 Richardson, Hugh B., O95187.
 Richardson, Johnny L., O97423.
 Richardson, Joseph L., O98418.
 Riggs, Harold E., O95189.
 Riley, James E., O97855.
 Rlingham, Lee O., O95671.
 Rippee, Eldon T., O95190.
 Robertson, Robert S., O97965.
 Ryan, William E., O94980.
 Salerno, Jerry A., O95200.
 Sanko, William J., O95678.
 Saville, Duane E., O95679.
 Sawyer, Frederick H., O95681.
 Scharrett, William J., O99985.
 Schmidbauer, James P., O95682.
 Schmitz, James W., O95683.
 Scruggs, James T., Jr., O99987.
 Sebastian, Elmer G., O95685.
 Shepard, John D., O96620.
 Sherladan, John T., O95215.
 Short, Alonzo E., Jr., O95689.
 Silver, Bedford J., O95218.
 Sims, Thomas L., O95221.
 Smith, Randolph L., O96506.
 Smith, Richard F., O93508.
 Smith, Robert P., OF100005.
 Smith, Samuel W., O95225.
 Sneed, Thomas A., O95226.
 Snellings, David D., Jr., O95696.
 Spaulding, William J., Sr., OF100006.
 Spetz, Steven N., O95700.
 Staehler, Joseph C., OF100007.
 Statum, Herman C., O96510.
 Stizza, John B., O95708.
 Summers, Clark H., Jr., O96514.
 Swendson, Joe A., O95715.
 Sworts, Ned, O95716.
 Sylvester, Carroll E., O95718.
 Tate, Raymond A., O95242.
 Tatum, Benjamin R., O95719.
 Taylor, Carl S., O95720.
 Taylor, Robert E., O96516.
 Thomas, Billy M., O96517.
 Thornton, Jack R., O95620.
 Tipplins, Gerald M., OF100018.
 Tobin, Jacob G. W., O96527.
 Toccafondl, Primo V., O95726.
 Torres, Peter B., O95728.
 Tucker, Charles G., O96529.
 Turner, Harvey E., O95254.
 Upchurch, Gilbert, O95730.
 Vannes, Clayton L., O95260.
 Varner, Thomas A., O95113.
 Vaughan, Bernard W., Jr., O99752.
 Velez, Agustin E., O94257.
 Veselka, Reynold, O95263.
 Vivas, Ernest E., O96531.
 Volta, Donald H., O99114.
 von Hoene, John P. A., O95732.
 Vozka, David, O95266.
 Vucichevich, Ivan J., O95733.
 Wagner, William J., Jr., O95267.
 Walker, Charles R., OF100030.
 Walters, Floyd J., Jr., O96535.
 Walton, Elmer D., Jr., O95271.
 Walton, Jamie W., OF100032.
 Ward, John E., O95273.
 Warren, Howard L., O95738.
 Wassom, Herbert M., OF100035.
 Watkins, Leo F., Jr., O95740.
 Watson, Neal C., OF100036.
 Weber, James J., O95742.
 Weber, Neal J., O95743.
 Whitaker, Chester J., O95286.
 Whitley, James R., Jr., OF101866.
 Whittington, William R., O96546.
 Wilbur, Paul A., O95289.
 Wiley, Jerry D., O96547.
 Willkerson, Roger C., O96548.
 Williams, Dock H., O95291.
 Willis, Deral E., O95292.
 Wilson, Lee B., O95749.
 Wilson, Lester R., O96551.
 Woods, James B., 3d, O96554.
 Word, Larry E., O95303.
 Wright, James A., O95754.
 Wuench, Robert L., O96556.

H. R. 7493

OF THE HOUSE OF REPRESENTATIVES

IN SENATE

THE HOUSE PASSED THE FOLLOWING RESOLUTION: That the House do suspend the rules, and pass the bill.

A BILL

to provide for the better regulation of the commerce of the United States, and for other purposes.

89TH CONGRESS
1ST SESSION

H. R. 7493

H. R. 7493

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 1965

Mr. HALPERN introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Fair Packaging and
4 Labeling Act”.

5 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND
6 LABELING

7 SEC. 2. (a) It shall be unlawful for any person engaged
8 in the packaging or labeling of any consumer commodity

1 (as defined by this Act) for distribution in commerce, or
2 for any person (other than a common carrier for hire, a
3 contract carrier for hire, or a freight forwarder for hire)
4 engaged in the distribution in commerce of any packaged or
5 labeled consumer commodity, to distribute or to cause to be
6 distributed in commerce any such commodity if such com-
7 modity is contained in a package, or if there is affixed to that
8 commodity a label, which does not conform to regulations
9 promulgated pursuant to this Act.

10 (b) The prohibition contained in subsection (a) shall
11 not apply to persons engaged in business as wholesale or
12 retail distributors of consumer commodities except to the
13 extent that such persons (1) are engaged in the packaging
14 or labeling of such commodities, or (2) prescribe or specify
15 by any means the manner in which such commodities are
16 packaged or labeled.

17 REGULATIONS TO BE PROMULGATED

18 SEC. 3. (a) As soon as practicable after the effective
19 date of this Act, regulations shall be promulgated to—

20 (1) require the net quantity of contents (in terms
21 of weight, measure, or count, or any combination there-
22 of) of consumer commodities to be stated upon the front
23 panel of packages containing such commodities, and upon
24 any labels affixed to such commodities;

25 (2) establish minimum standards with respect to

1 the prominence of statements of the net quantity of con-
2 tents (including minimum standards as to the type size
3 and face in which such statements shall be made) ap-
4 pearing upon packages containing any consumer com-
5 modity and upon labels affixed to any such commodity;

6 (3) prohibit the addition to such statements of net
7 quantity of contents of any qualifying words or phrases;

8 (4) specify such exceptions to the foregoing require-
9 ments as the promulgating authority may determine to be
10 required by the nature, form, or quantity of particular
11 consumer commodities, or by the customary mode of
12 display of any particular consumer commodity for retail
13 sale, except that no exception may be made if that ex-
14 ception would deprive consumers of reasonable oppor-
15 tunity to make rational comparisons between or among
16 competing products;

17 (5) prohibit the placement upon any package con-
18 taining such commodity, or upon any label affixed to
19 such commodity, of any printed matter stating or repre-
20 senting by implication that such commodity is offered
21 for retail sale at a price lower than the ordinary and
22 customary retail sale price, or that a retail sale price
23 advantage is accorded to retail purchasers thereof by
24 reason of the size of that package or the quantity of its
25 contents, except that no regulation promulgated under

1 this section shall prevent any person while engaged at
2 any time in the sale of any consumer commodity at
3 retail to ultimate purchasers thereof from placing upon
4 any such commodity, or upon any package containing
5 that commodity, any marking pertaining to the retail
6 sale price of that commodity; and

7 (6) prevent the placement, upon any package in
8 which such commodity is distributed for retail sale, of
9 any illustration or pictorial matter which is likely to
10 deceive retail purchasers in any material respect as to
11 the contents of that package.

12 (b) (1) Regulations under this section shall be promul-
13 gated by—

14 (A) the Secretary of Health, Education, and Wel-
15 fare (referred to hereinafter as the “Secretary”), with
16 respect to any consumer commodity which is a food,
17 drug, device, or cosmetic, as each such term is defined
18 by section 201 of the Federal Food, Drug, and Cosmetic
19 Act (21 U.S.C. 321) ; and

20 (B) the Federal Trade Commission (referred to
21 hereinafter as the “Commission”) with respect to any
22 other consumer commodity.

23 (2) Such regulations adopted by the Secretary and by
24 the Commission shall be uniform in content and application

1 to the greatest practicable extent, as determined by consul-
2 tation between the Secretary and the Commission.

3 (c) Whenever the Secretary (as to any food, drug,
4 device, or cosmetic), or the Commission (as to any other
5 consumer commodity) determines that additional regulations
6 are necessary to establish or preserve fair competition be-
7 tween or among competing products by enabling consumers
8 to make rational comparison with respect to price and other
9 factors, or to prevent the deception of consumers as to such
10 product, the Secretary or the Commission, as the case may
11 be, shall promulgate under this subsection with respect to that
12 commodity regulations effective to—

13 (1) establish reasonable weights or quantities, or
14 fractions or multiples thereof, in which that commodity
15 shall be distributed for retail sale, except that no such
16 regulation may be inconsistent with standards prescribed
17 by the Secretary of Commerce before the effective date
18 of this Act with regard to the sizes of containers used
19 for the retail sale of any commodity, and no weights
20 and measures shall be established in amounts of less
21 than two ounces;

22 (2) prevent the distribution of that commodity for
23 retail sale in packages of sizes, shapes, or dimensional

1 proportions which are likely to deceive retail purchasers
2 in any material respect as to the net quantity of the
3 contents thereof (in terms of weight, measure, or
4 count), except that where reasonable weights and
5 measures have been established pursuant to the provi-
6 sions of paragraph (1) of this subsection such regula-
7 tions may not proscribe the use of package shapes which
8 have been designed to exploit the unique advantages of
9 any material for use in the production of packages of
10 distinctive appearance;

11 (3) establish and define standards of designations of
12 size (other than statements of net quantity of contents)
13 which may be used to characterize quantitatively the
14 contents of packages containing that commodity;

15 (4) establish and define the net quantity of any
16 commodity (in terms of weight, measure, or count)
17 which shall constitute a serving, if that commodity is
18 distributed to retail purchasers in a package or with a
19 label which bears a representation as to the number of
20 servings provided by the net quantity of contents con-
21 tained in that package or to which that label is affixed;

22 (5) establish and define standards for the quantita-
23 tive designation of the contents of packages containing
24 any consumer commodity of a kind the net quantity of

contents of which cannot meaningfully be designated in terms of weight, measure, or count; and

(6) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended) that sufficient information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed in a prominent position upon packages containing that commodity and upon labels affixed thereto.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 4. (a) Before promulgating any proposed regulation under section 3 with respect to any consumer commodity, the Secretary or the Commission, as the case may be, shall (1) consult with other agencies of the Government having special competence with respect to the subject of that regulation concerning the scope, application, form, and effect thereof, (2) publish in the Federal Register reasonable advance notice of intention to promulgate such regulation, and (3) accord to persons who would be affected thereby reasonable opportunity for consultation with respect to such proposed regulation.

(b) All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Ad-

1 ministrative Procedure Act. No regulation shall be promul-
2 gated for any purpose described in section 3 (c) of this Act
3 unless a public hearing has been conducted and opportunity
4 for review has been accorded in conformity with the provi-
5 sions of sections 7 and 8 of the Administrative Procedure
6 Act.

7 (c) Any regulation promulgated under this Act may be
8 modified by the promulgating authority, upon the initiative
9 of that authority or upon application made by any person
10 affected by that regulation, whenever such authority deter-
11 mines that such modification is necessary to conform to the
12 requirements of this Act or to any change occurring in the
13 method of packaging, labeling, distributing, or marketing of
14 any consumer commodity.

15 (d) No regulation adopted under this Act shall take
16 effect until a reasonable period of time (as determined by
17 the Secretary or the Commission, as the case may be) has
18 passed after the promulgation thereof to permit persons af-
19 fected thereby to effectuate compliance with the provisions
20 of such regulation.

21 (e) In carrying into effect the provisions of this Act,
22 the Secretary and the Commission are authorized to coop-
23 erate with any department or agency of the United States,
24 with any State, Commonwealth, or possession of the United

1 States, and with any department, agency, or political subdi-
2 vision of any such State, Commonwealth, or possession.

3 ENFORCEMENT OF REGULATIONS

4 SEC. 5. (a) Upon written request made, by the officer
5 or agency authorized or directed by this Act to establish
6 packaging or labeling regulations as to any consumer com-
7 modity of any class or kind, to any producer or distributor
8 of such consumer commodity, such producer or distributor
9 shall transmit promptly to that officer or agency a true
10 and correct sample of each package and label used by that
11 producer or distributor for or in connection with the dis-
12 tribution in commerce of any particularly described consumer
13 commodity of that class or kind. Any person who fails to
14 transmit any such sample to such authority within twenty
15 days after receipt of such request shall be subject to a civil
16 penalty of not more than \$1,000 for each day of the con-
17 tinuance of such failure, except that the amount of such
18 penalty may be compromised by such authority before the
19 final determination of action for the recovery thereof. Such
20 forfeiture shall be recovered in a civil action brought in the
21 name of the United States in the district court of the United
22 States for any judicial district in which such person resides,
23 does business, or is found. Upon demand made by the de-
24 fendant before the trial of any such action upon its merits,

1 the defendant shall be entitled to have any issue of fact
2 with respect to such failure determined by a jury.

3 (b) Any consumer commodity introduced or delivered
4 for introduction into commerce in violation of any regulation
5 promulgated by the Secretary of Health, Education, and
6 Welfare under this Act while that regulation is in force and
7 in effect shall be deemed to be misbranded within the
8 meaning of chapter III of the Federal Food, Drug, and
9 Cosmetic Act, but the provisions of section 303 of that
10 Act (21 U.S.C. 333) shall have no application to any
11 violation of any such regulation.

12 (c) Any violation of any regulation promulgated under
13 this Act by the Federal Trade Commission while that regula-
14 tion is in force and in effect shall constitute an unfair or
15 deceptive act or practice in commerce in violation of section
16 5 (a) of the Federal Trade Commission Act. The remedies
17 provided by sections 4, 4A, and 16 of the Act entitled "An
18 Act to supplement existing laws against unlawful restraints
19 and monopolies, and for other purposes", approved October
20 15, 1914 (38 Stat. 730, as amended; 15 U.S.C. 15, 15a, and
21 26), commonly known as the Clayton Act, shall not be
22 available to any person threatened with loss or damage, or
23 injured in his business or property, by any violation of any
24 such regulation under this Act.

REPORTS TO THE CONGRESS

SEC. 6. Each officer or agency required or authorized by this section to promulgate regulations for the packaging or labeling of any consumer commodity shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding calendar year.

COOPERATION WITH STATE AUTHORITIES

SEC. 7. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal standards for the packaging and labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 8. As used in this section—

(1) The term “commerce” has the meaning given thereto by section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

(2) The term “consumer commodity”, except as otherwise specifically provided by this paragraph, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include (A) any meat, meat product, poultry, or poultry product, (B) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin

1 Act; (C) any beverage subject to or complying with
2 packaging or labeling requirements imposed under the
3 Federal Alcohol Administration Act (27 U.S.C. 201
4 et seq.) ; or (D) any commodity subject to the pro-
5 visions of the Federal Seed Act (7 U.S.C. 1551-1610).

6 (3) The term "package" means any container or
7 wrapping in which any consumer commodity is enclosed
8 for use in the delivery or display of that commodity to
9 retail purchasers thereof, but does not include (A)
10 shipping containers or wrappings used solely for the
11 transportation of such commodity in bulk or in quantity
12 to wholesale or retail distributors thereof, (B) shipping
13 containers or outer wrappings used by retailers to ship
14 or deliver such commodity to retail customers if such
15 containers and wrappings bear no printed matter per-
16 taining to any particular commodity, or (C) containers
17 subject to the provisions of the Act of August 3, 1912
18 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the
19 Act of March 4, 1915 (38 Stat. 1186, as amended;
20 15 U.S.C. 234-236), the Act of August 31, 1916 (39
21 Stat. 673, as amended; 15 U.S.C. 251-256), or the
22 Act of May 21, 1928 (45 Stat. 685, as amended; 15
23 U.S.C. 257-257i).

24 (4) The term "label" means any written, printed,
25 or graphic matter affixed to any consumer commodity.

1 (5) The term "person" includes any firm, corpora-
2 tion, or association.

3 SAVING PROVISION

4 SEC. 9. Nothing contained in this Act shall be construed
5 to repeal, invalidate, supersede, or otherwise adversely
6 affect—

7 (a) the Federal Trade Commission Act or any
8 statute defined therein as an antitrust Act;

9 (b) the Federal Food, Drug, and Cosmetic Act;

10 (c) the Hazardous Substance Act; or

11 (d) any provision of State law which would be
12 valid in the absence of such amendment unless there
13 is a direct and positive conflict between such amendment
14 in its application to interstate or foreign commerce and
15 such provision of State law.

16 EFFECTIVE DATE

17 SEC. 10. This Act shall take effect on the first day of
18 the sixth month beginning after the date of enactment of
19 this Act.

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

By Mr. HALPERN

APRIL 14, 1965

Referred to the Committee on Interstate and Foreign
Commerce

A BILL

For the purpose of the Department of
the United States of America
to provide for the better
management of the
Department of the
United States of America
and for other purposes

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
(NOT TO BE QUOTED OR CITED)

Issued July 14, 1965
For actions of July 13, 1965
89th-1st; No. 126

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HIGHLIGHTS: Senate passed agricultural appropriation bill and independent offices appropriation bill. Senate took up housing and urban development bill. House agreed to conference report on cigarette labeling bill. House agreed to conference report on water resources bill. Rep. Cooley introduced farm bill.

SENATE

1. AGRICULTURAL APPROPRIATION BILL, 1966. By a vote of 86 to 2, passed with amendments this bill, H. R. 8370 (pp. 16034, 16035-55). Conferees were appointed (p. 16055). House conferees have not yet been appointed. Agreed to the committee amendments en bloc (pp. 16039-40). Agreed to an amendment by Sen. Hart to provide \$157 million for the school lunch program, rather than \$155 million as reported by committee, with the additional \$2 million to be used for special assistance to needy schools (pp. 16040-3). Agreed to an amendment by Sen. Bass to provide an additional \$75,000 for watershed protection which he stated was "for the purpose of allowing a comprehensive river basin study of all streams draining through Shelby County, Tenn." (pp. 16043-4).

2. INDEPENDENT OFFICES APPROPRIATION BILL, 1966. By a vote of 84 to 2, passed with amendments this bill, H. R. 7997 (pp. 16008-27). Conferees were appointed (p. 16027). House conferees have not yet been appointed. A point of order was sustained against a proposed amendment by Sen. Dirksen to provide \$6,386,800,000 for financing the U. S. liability on payments to the Civil Service retirement fund (pp. 16016-26). This bill includes funds for civil defense and defense mobilization functions of Federal agencies; disaster relief fund of the President; Civil Service Commission; Federal Power Commission; Federal Trade Commission; General Accounting Office; General Services Administration; Housing and Home Finance Agency; Interstate Commerce Commission, and National Science Foundation.
 3. D. C. APPROPRIATION BILL, 1966. Agreed to the conference report on this bill, H. R. 6453. This bill will now be sent to the President. pp. 16079-16111
 4. HOUSING. S. 2213, the housing and urban development bill was made the unfinished business (p. 16056.) Sen. Douglas reviewed the purpose and certain provisions of the bill (pp. 16057-67). Sens. Tower, Javits, and Miller submitted amendments intended to be proposed to this bill (pp. 16033, 16120).
 5. SILK; FOREIGN TRADE. The Finance Committee reported with amendments H. R. 5768, to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk (S. Rept. 433). p. 16120
 6. MARKETING. Sen. Hart spoke in support of S. 985, the proposed truth-in-packaging bill, and inserted a letter by Mrs. Esther Peterson in support of the bill. pp. 16056-7
 7. BUDGET DEFICIT. Sen. Smathers commended the announcement that the U. S. budget deficit for fiscal 1965 was lower than originally predicted and inserted an article on the matter. pp. 16074-5
 8. RESEARCH. Sen. Proxmire expressed concern over possible Federal domination of research at colleges and universities as a result of increasing financial support of science by the Government, and inserted an article, "The Support of Science in the United States." pp. 16075-7
 9. AGRICULTURE. Sen. Morse inserted a letter reviewing economic development in Ore., including agriculture and forestry. pp. 16111-3
 10. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the housing and urban development will be considered today, July 14, and, possibly, the conference report on the water resources development bill. p. 16056
- HOUSE
11. CIGARETTE LABELING. Agreed to the conference report on S. 559, the cigarette labeling bill (pp. 15959-66, 15998-9). This bill will now be sent to the President.
 12. WATER RESOURCES. Agreed to the conference report on S. 21, the proposed Water Resources Planning Act (pp. 15966, 16001-2). See digest 123 for provisions of this bill.

Of the many programs that the Congress has undertaken to improve the lot of the American farmer, the REA telephone program must be considered one of the most important.

The Appropriations Committee has called for a telephone loan program authorization of \$97 million for 1966, the budget request. However, the committee has reserved \$15 million in a contingency fund. For a program that is expected to receive \$100 million in new applications in 1966 and has already on hand at the beginning of fiscal year 1966 a backlog of applications totaling \$126 million, a contingency provision seems quite unnecessary. I say this, especially in view of the difficulty we recently encountered with the Budget Bureau in getting such contingency funds released for the REA and telephone programs. Since it involves no additional appropriations, I hope the managers of the bill before us will, in conference, at least accept the House provision for a \$7 million contingency reserve, instead of \$15 million.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Oklahoma [Mr. HARRIS], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Oklahoma [Mr. MONRONEY] are absent on official business.

I also announce that the Senator from Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Utah [Mr. MOSS] and the Senator from Alabama [Mr. SPARKMAN], are necessarily absent.

I further announce that, if present and voting, the Senator from Virginia [Mr. BYRD], the Senator from Idaho [Mr. CHURCH], the Senator from Oklahoma [Mr. HARRIS], the Senator from Oklahoma [Mr. MONRONEY], the Senator from Utah [Mr. MOSS] and the Senator from Rhode Island [Mr. PASTORE] would each vote "yea."

Mr. KUCHEL. I announce that the Senator from Kansas [Mr. PEARSON] is absent on official business and, if present and voting, would vote "yea."

The Senator from Wyoming [Mr. SIMPSON] is necessarily absent, and if present and voting, would vote "yea."

The result was announced—yeas 86, nays 2, as follows:

[No. 182 Leg.]

YEAS—86

Aiken	Cotton	Hickenlooper
Allott	Curtis	Hill
Anderson	Dirksen	Holland
Bartlett	Dominick	Hruska
Bass	Douglas	Inouye
Bayh	Eastland	Jackson
Bennett	Ellender	Javits
Bible	Ervin	Jordan, Idaho
Boggs	Fannin	Kennedy, Mass.
Burdick	Fong	Kennedy, N.Y.
Byrd, W. Va.	Fulbright	Kuchel
Cannon	Gore	Long, Mo.
Carlson	Gruening	Long, La.
Case	Hart	Magnuson
Clark	Hartke	Mansfield
Cooper	Hayden	McCarthy

McClellan
McGee
McGovern
McIntyre
McNamara
Metcalf
Miller
Mondale
Montoya
Morse
Morton
Mundt
Murphy

Muskie
Nelson
Neuberger
Pell
Prouty
Proxmire
Randolph
Robertson
Russell, Ga.
Russell, S.C.
Saltonstall
Scott
Smathers

Smith
Stennis
Symington
Talmadge
Thurmond
Tower
Tydings
Williams, N.J.
Williams, Del.
Yarborough
Young, N. Dak.
Young, Ohio

NAYS—2

Brewster

Ribicoff

NOT VOTING—12

Byrd, Va.
Church
Dodd
Harris

Jordan, N.C.
Lausche
Monroney
Moss

Pastore
Pearson
Simpson
Sparkman

So the bill (H.R. 8370) was passed.

Mr. HOLLAND. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. HARTKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLAND. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. MONDALE in the chair) appointed Mr. HOLLAND, Mr. RUSSELL of Georgia, Mr. HAYDEN, Mr. ELLENDER, Mr. YOUNG of North Dakota, and Mr. MUNDT conferees on the part of the Senate.

SAFETY REGULATION OF COMMON CARRIERS BY PIPELINE

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5041, to amend title 18, chapter 39, United States Code.

The PRESIDING OFFICER (Mr. MONDALE in the chair) laid before the Senate the bill (H.R. 5041) to provide for safety regulation of common carriers by pipeline under the jurisdiction of the Interstate Commerce Commission, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed at this point in the RECORD certain segments from the report on Senate bill 1021 and other legislative considerations in support of the measure.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED LEGISLATION

This bill would amend section 831 of title 18 of the United States Code to give the Interstate Commerce Commission specific statutory authority and responsibility for the safety regulation of all pipelines (other than those used for the transmission of water and gas) operating in interstate commerce.

NEED FOR LEGISLATION

In the Department of Commerce's "Report on Movement of Dangerous Cargoes," dated September 30, 1963, it was pointed out that

"no Federal agency now has authority for safety regulation of pipelines" (p. 3, par. 3). This report followed an interagency study coordinated by the Office of the Under Secretary of Commerce for Transportation. The 22 Federal agencies involved in the study approved the following recommendation: "The Interstate Commerce Commission should be given specific authority and responsibility for the safety regulation of all pipelines operating in interstate and/or foreign commerce (other than water pipelines and gas pipelines)."

Prior to the enactment of Public Law 86-710 on September 6, 1960, the definition of "carrier" in the Transportation of Explosives Act included oil pipelines. When that act was amended in 1960, primarily to extend the Commission's safety jurisdiction over private carriers, the definition of "carrier" was revised to exclude oil pipelines. The testimony of witnesses for the Department of Commerce, the Interstate Commerce Commission, and the oil pipeline industry indicated that they know of no reason for this exclusion and believed that it had been done inadvertently.

At the hearing held on this bill on June 3, 1965, the Chairman of the Interstate Commerce Commission noted that the accident experience of oil pipelines does not disclose any pressing need for Federal safety regulation, but that the proposed legislation does seem desirable because it will protect interstate pipeline carriers against the threat of conflicting safety legislation by the States. The Chairman also pointed out that this proposed legislation would enable the Commission to cope with any safety hazards which may arise in the future by virtue of changes in the operations or traffic content of pipelines.

The Deputy Under Secretary for Transportation, Department of Commerce, recommended enactment of this bill as another step toward the completion of a rational, unified transportation policy. He stated that he knew of no opposition to the bill, and that the Department of Commerce was pleased to note the apparent unanimity of concern in the uniform regulation of carrier safety by the Federal Government.

The general counsel of the Association of Oil Pipe Lines testified that the safety record of oil pipelines has been, and continues to be, outstanding. He held that if there is to be safety regulation of the industry by a governmental body, then Federal regulation would be appropriate to the interstate nature of oil pipelines and would produce a uniformity and consistency of safety standards that would be in the public interest. He further testified that the lack of Federal safety regulation has given rise to an increasing tendency to have safety regulation at the State, county, and parish level with the possibility of conflicts or inconsistencies between such local regulations.

Testimony was also received by the committee from the Board of Commissioners, Chester County, Pa., and the Southeastern Pennsylvania Landowners Association. These witnesses expressed concern that the bill would preempt the field of pipeline safety. The committee does not intend that this bill preempt the field, any more than Commission safety regulation has preempted the field in the safety regulation of railroads or motor carriers. The committee does intend that the safety regulations of the Commission under the proposed legislation supersede any conflicting legislation by the States or at the local level in order to avoid a multiplicity of conflicting regulations.

PURPOSE OF THE BILL

This legislation restores to the Commission safety jurisdiction over oil pipelines as it existed prior to the 1960 amendments. Title 18, chapter 39, of the United States Code governs the transportation of explosives and other dangerous articles. Section

834 of that chapter directs the Interstate Commerce Commission to formulate regulations for the safe transportation by carriers of such dangerous articles. As a result of the 1960 amendments, section 831 defines "carrier" to expressly exclude pipelines. This proposed legislation would amend section 831 to redefine "carrier" to specifically include oil pipelines. While the deletion of the express exclusion alone would, in the committee's opinion, make pipelines subject to regulations issued by the Commission under section 834, the committee has reported the bill as introduced which specifically adds pipelines to the definition section. The committee notes that since under the definition contained in sections 1(3)(a) and 1(1)(b) of the Interstate Commerce Act, "common carrier" includes a pipeline company engaged in the transportation of oil or other commodity, except water and except natural or artificial gas. Striking the three words "other than pipelines" in section 831 restores the Commission's authority to formulate safety regulations for pipelines (other than water or gas) and to administer and enforce the provisions of the law relating to the transportation of combustibles and explosives as they pertain to such pipeline companies. The addition of the words "or pipeline" to section 831 in the proposed legislation clarifies the intent of the committee to restore the Commission's authority as it existed prior to the 1960 amendments.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5041) was ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 414, S. 1021, a companion bill to H.R. 5041, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, S. 1021 is indefinitely postponed.

HOUSING FOR LOW- AND MODERATE-INCOME FAMILIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 366, S. 2213.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2213) to assist in the provision of housing for low- and moderate-income families, to promote orderly urban development, to improve living environment in urban areas, and to extend and amend laws relating to housing, urban renewal, urban mass transportation, and community facilities.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, no action will be taken on the bill today because it is my understanding that the distinguished Senator from West Virginia [Mr. Byrd], chairman of the Subcommittee on District of Columbia Appropriations, is about to call up the conference report on the District of Columbia appropriation bill. Before he does so, I yield to the distinguished Senator from Illinois, the minority leader.

LEGISLATIVE PROGRAM

Mr. DIRKSEN. Mr. President, I should like to query the distinguished majority leader about the business for the rest of today and tomorrow and, so far as he can determine, for the remainder of the week.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished minority leader, whom I am happy to see in improved health, and who, I hope, will remain that way—

Mr. DIRKSEN. I thank the Senator from Montana.

Mr. MANSFIELD. It is the intention, first, to call up the conference report on the District of Columbia appropriation bill. The housing bill, which is the pending business, will not be considered until tomorrow.

I understand that there is a possibility that tomorrow the conference report on the river basin planning bill may follow the housing bill.

Then either Calendar No. 368, S. 118, the District of Columbia home rule bill, or Calendar No. 258, S. 9, the so-called GI cold war bill, will follow in that order.

ORDER FOR ADJOURNMENT UNTIL NOON TOMORROW

Mr. MANSFIELD. Mr. President, after consultation with the distinguished minority leader and other Senators, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until 11 o'clock tomorrow morning.

Mr. DIRKSEN. Mr. President, reluctantly, I would hope that the majority leader would not have the Senate convene before noon tomorrow.

Mr. MANSFIELD. Mr. President, I change that request to 12 o'clock noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRUTH IN PACKAGING

Mr. HART. Mr. President, much has been said by opponents of the truth-in-packaging bill (S. 985) concerning the alleged lack of interest in the bill by the average consumer. Much also has been said by the opponents—all of it laudatory—about the intelligence of our American women. As opponents tell the story, women are much too smart to be fooled by the packaging they face in today's supermarket. Therefore, the argument continues, women have no interest in a bill which would correct some of those packaging practices.

There is no question in my mind as to the capabilities of American women. As a matter of fact, I have contributed several thousand words of praise to the ever-swelling collection of tributes.

However, one thing has struck me. That is that all of the defenders of the "too-smart-to-be-fooled" American women are American men. Women themselves have another story to tell.

Recently, Special Assistant to the President for Consumer Affairs Esther Peterson—a very intelligent woman who strongly supports the truth-in-packaging bill—exchanged letters with another of our intelligent American women who also strongly supports—and wants—the

bill. Mrs. Peterson thought the exchange so typical—as do I—that she wanted to share the letters with the Members of Congress.

Mr. President, I ask unanimous consent that the correspondence of Mrs. Stephen Press, of New York City, with Mrs. Peterson be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

NEW YORK, N.Y.
May 18, 1965.

Mrs. ESTHER PETERSON,
Special Assistant to the President for Consumer Affairs, Executive Office of the President, Washington, D.C.

DEAR MRS. PETERSON: Thank you so much for your letter of May 10.

I would certainly have no objection to having any part or all of my letter inserted in the CONGRESSIONAL RECORD. Would it be possible for me to obtain a copy of the section of the CONGRESSIONAL RECORD in which it will appear or else to find out just where in the RECORD to look for it myself? My curiosity also prompts me to ask whether you would not recall on what television program it was that you quoted from my letter.

In my previous letter to you, I had made a statement to the effect that there did not seem to be any agency to which the consumer group that I had been heading could turn. Since this was a rather vague statement, I would like to present to you a sampling of the problems that we discovered and seek your advice in regard to them.

We were surveying food stores, for example, to see how faithfully they adhered to their advertisements in the newspapers. We discovered that, of the large chains, the A. & P. stores were among the most consistent offenders, in terms of charging more than advertised or of not having the products advertised available. We collected factual proof of discrepancies between prices advertised on certain products and the prices actually charged for them, and the first place that we turned to with this information was the New York City Department of Markets. The department of markets expressed interest in the matter, but, despite our numerous and protracted efforts, we were never able to find out what, if anything, had been done in regard to the situation. We turned to the Better Business Bureau, and this agency never inspected the matter at first hand at all; they simply talked to the executives at the A. & P., gave us the A. & P.'s version of the story (which we already knew) and said they trusted the matter had been explained to our satisfaction. The New York State attorney general's office and the Federal Trade Commission were of no help either. The false advertising was a fact, we had proof of it, but no one was interested.

As a second example, we determined through surveys that the price of milk in the city of New York varied fantastically in different parts of the city. At the time of the survey, the price of a half-gallon container of milk, for instance, averaged 57-58 cents in the lower and middle portions of Manhattan, 49 cents in upper Manhattan and the lower Bronx, and progressively less as one advanced further north in the Bronx; in the adjoining Borough of Queens, it averaged 45 cents. We also analyzed the prices from the point of view of what certain specific chainstores were charging in different sections of the city. Our results showed that the prices in the chainstore branches corresponded to the average prices mentioned above. Thus, for example, the price of milk in one chain—the A. & P.—on one brand of milk—Borden's—differed according to the section of the city the branch store was located in. The New York City Commissioner of Investigation was conduct-

ing an investigation of milk price fixing, which he said apparently did exist. His information was turned over to State investigators and, as far as we know, that was the last that was heard of that, despite litigation brought by private individuals to get the above-mentioned reports made public.

As a third example—the women's hosiery industry appears to be one of the most unregulated industries extant. There is no standard for quality: we discovered many a pair of stockings labeled "first quality" to have entire rows of skipped stitches. Lengths vary at will: we found size 9 stockings, for example, to run anywhere from 28 to 33 inches in length. Each manufacturer has different lengths for the same sizes; but even a single box of stockings from one manufacturer will sometimes have a discrepancy of several inches between the various stockings in the box. A popular explanation of this fact, we found, is that "the manufacturer tries to please everybody—the short, the medium, and the tall—by giving them a variety of sizes in one box." The problem is that, usually, it is one woman who is stuck with all the different sizes in one box.

Is there anything that consumers can do in cases such as the above, Mrs. Peterson? Which agencies do handle such problems?

As a final word, I would like to say that the truth-in-packaging hearings must be receiving more publicity in other parts of the country than here. Around here, hardly anybody that I talk to seems to be aware of the hearings. It is a shame, but the bill appears to be getting very little publicity here.

Thank you very much, Mrs. Peterson, for your attention.

Sincerely yours,

REBECCA PRESS
Mrs. Stephen Press.

MAY 10, 1965.

Mrs. STEPHEN PRESS,
New York, N.Y.

DEAR MRS. PRESS: My sincere thanks to you for your thoughtful letter. It was received just before I left for a speaking engagement and a television program. I took it with me and quoted extensively from it. Would you have any objection to having your letter inserted in the CONGRESSIONAL RECORD? It is a good letter and I would like to have others have the same opportunity to study it as I had.

Because of your interest, I am taking the liberty of sending you a copy of my testimony before the Senate Commerce Committee on the truth-in-packaging bill. The hearings (which are still being conducted) are receiving a great deal of publicity so I hope more housewives around the country will become aware of Senator HART's efforts in this field.

You mentioned the work of your consumer group and the fact that there did not seem to be any agency to which you could turn with consumer problems. There are 23 Federal agencies working in various areas on behalf of consumers. The President's Committee on Consumer Interests works closely with these agencies and any time you have a problem or suggestion, if you will send it to me I will make sure it gets to the proper Government agency.

Again, my thanks for your taking the time to write your views.

Sincerely,

Mrs. ESTHER PETERSON,
Special Assistant to the President
for Consumer Affairs.

NEW YORK, N.Y.,
May 3, 1965.

Mrs. ESTHER PETERSON,
U.S. Department of Labor,
Washington, D.C.

DEAR MRS. PETERSON: I have read Senator SCOTT's comment at the truth-in-packaging

hearings to the effect that "the bill proceeds on the premise the housewife is dumb, which I deny, being married." I have also read the claims of various manufacturers that the proposed bill underestimates the intelligence of American housewives, who have no trouble slogging through the labyrinths of the retail markets.

I am not a dumb housewife. I have a master's degree and work in the professional world (as a translator). And I, as a housewife, resent many of the practices now in existence in the packaging industry.

I presume that the above-mentioned Senator's wife does not mind the fact that soap bars usually bears no indication of weight on them; but I do. Does his wife know that it costs less proportionally to buy the small cakes of some soaps—such as Ivory—than the large double ones? As a matter of fact, does she know that in many cases it costs less proportionally to buy the smaller boxes of soap flakes and laundry detergents than the larger ones? Most women do not—they assume (on the basis of many years of advertising by manufacturers) that the larger size is always more economical. Unless you carry a slide rule with you (I have been considering learning how to use one), there is no easy way of figuring out this fact—in view of all the fantastic combinations of weight that the packagers manage to devise for their products. With the soap bars, of course, you either have to carry a portable scale or else use the grocer's scale if you want to determine the proportional cost of what you are getting. I even discovered that a popular brand of hard candy—Charms—charges more proportionally for a larger package than for a small one.

I see no crime in wanting to know the relative costs of products that you are buying—especially in a freely competitive society. This is, of course, a tremendously difficult task under the present circumstances, where weight denominations on every single package vary—not only in the amount of ounces, but even in fractions of ounces. There may be some justification, I suppose, for small packages of spices to weigh odd amounts—for example, McCormick's bay leaves, which weigh either eight-fourteenths or nine-fourteenths ounce (the print is so small that I cannot tell which it is), or McCormick's minced onion, which weighs 1½ ounces—but I am not sure what this justification is, since other spices seem to manage well with one-fourth-, one-half-, or three-fourth-ounce denominations. When we get to bigger packages, though, there is really no justification for "giant" sizes of laundry detergent, for example, to weigh 3 pounds 1¼ ounces. The manufacturers claim that their "creativity" would be hampered if the present bill were passed. I do not see why one cannot be as creative with a 3-pound box of laundry detergent as with a 3-pound, 1¼ ounce one.

I am equally annoyed with misleading labeling of products, as in the case of pork and beans. Why should a can be labeled "pork and beans" when the contents include beans with a tiny piece of pork fat? I wrote to the Heinz Co. asking them where I could find the pork in their can of pork and beans. They answered me with a very placating letter, explaining that, as I ate the contents of the can, I should look for a piece of pork fat—that, they stated, constituted the federally approved requirement for pork in a can of pork and beans.

"To suggest that [the American housewife] needs additional laws to help her determine value" is not, as Mr. Halverstadt would have it, to underestimate her intelligence and shopping ability. Some women are perfectly satisfied with conditions as they are because they do not care how much money they spend at the supermarket. Some women do care, but throw their hands up in despair after trying to calculate the relative values of

many products. Some women just buy the package that costs less, even though it costs proportionally more than a higher-priced, bigger package standing next to it. Some women, who are determined to get the most for their money, resort to walking around the markets with pencil and paper in hand.

I have done research on a number of consumer problems and headed a local consumer group for a while, but our success was limited because there did not seem to be any agency to which we could turn with consumer problems.

I feel that the second section of the proposed bill is a long-overdue imperative and fervently hope that it will be passed.

If Mr. Halverstadt and other industrialists are so sure that consumers are happy, they should have no fear of testing their premise by endorsing the establishment of an agency or agencies to which housewives (and other consumers) could turn if and when they do have problems or concerns. They could then hear the preferences of the public and not have to fear Federal officials "imposing their own preferences * * * upon the public."

Please extend my warmest thanks to Senator HART for his concern. I think that if his efforts were more widely publicized to housewives around the country, he would receive a great deal more support. Is there any chance of that? Is there any chance of having comparative value surveys made public?

Finally, is there any chance of having the type of consumer agencies that I mentioned above created—agencies to which a consumer could bring his problems for attention and some kind of action?

Thank you for your attention.

Sincerely yours,

REBECCA PRESS,
Mrs. Stephen Press.

THE 1965 HOUSING BILL

Mr. DOUGLAS. Mr. President, tomorrow the Senate will consider S. 2213, the omnibus housing bill. This bill is the most significant step yet taken by Congress in fulfilling its 1949 commitment to provide a decent home for every American family. As a member of the Banking and Currency committee, I was privileged to have had a hand in shaping this important bill and I will be proud to support it on the floor of the Senate.

In many ways the bill is better than the one originally introduced and the credit must go to my hard-working colleagues on the Housing subcommittee and its able chairman, the Senator from Alabama. So that Members may have an adequate record for the debate tomorrow, I am making this speech and inserting certain material in the RECORD today.

The basic purpose of the bill is simple—to make our cities and towns better places in which to work and live. For better or for worse we live in an urban society and the health of our Nation can be measured to a considerable extent by the health of our cities. Most of our wealth, talent, and cultural achievements are located in urban centers. If we permit them to decay and stagnate—if we fail to preserve their vitality and diversity—if we ignore the basic fact that cities were built for people to serve human needs—our entire Nation will soon falter and decline.

Seven out of every 10 Americans now live in urban areas. Only 1 in 10 lives on a farm. But in spite of this predominately urban environment the

presumed superiority of rural values still permeates our culture. We see it reflected in the Federal budget, where the expenditures for agriculture are 14 times greater than urban expenditures—thus in 1966, the President's budget contains \$6.4 billion for the Department of Agriculture and \$454 million for the Housing and Home Finance Agency—and, on a per capita basis, 140 times greater. And there are some who still argue that it is too dangerous to permit city dwellers a full voice in State government.

This is not to suggest that the Government should ignore the problems of agriculture. I believe in adequate help to low-income farmers; but I would also like to see somewhat more recognition to those who live in cities and towns.

The Housing and Urban Development Act is a step in this direction. It extends for 4 years the existing programs which we have thus far developed to meet the problems of our cities and towns. Many of these programs, such as public housing and urban renewal, were once bitterly opposed; they now seem established beyond serious dispute. In addition, the bill contains several new programs for helping our communities to secure better housing and create a better life for all their citizens.

I. IMPROVEMENTS IN THE HOUSING PROGRAM

The most significant new proposal in the bill is the rent supplement program which President Johnson termed the "most crucial new instrument in our effort to improve the American city." But there are other improvements in the bill which we should not ignore.

First. The bill permits the public housing program to make greater use of vacant housing already available on the private housing market. These vacancies exist in many cities but are generally still beyond the reach of lower income families. The local housing authority would be permitted to lease or purchase up to 100,000 of these vacant units over the next 4 years and to rent them, at a reduced rate, to poor families who are otherwise eligible for public housing. Thus the needs of the poor are met while at the same time the city makes more efficient use of its total supply of housing which otherwise would lie idle.

Second. The bill will provide more housing for moderate income and elderly families in the \$4,000 to \$6,000 income bracket. It does so by reducing to 3 percent the interest rate on mortgages which finance this type of housing. The present rate, which is tied to the interest rate on Federal obligations is close to 4 percent and otherwise would soon go even higher.

We adopted these two special programs in 1959 and 1961 when interest rates were around 3 percent. Our original purpose was to encourage the construction of housing for families with incomes too high for public housing but not high enough for decent private housing. Unfortunately this aim is being defeated by the rise in interest rates. Rentals are being forced beyond the reach of the groups for which the housing was intended. The return to a 3-percent rate will therefore restore these programs to their original purpose.

Third. The bill provides over a 4-year period \$700 million in matching grants to cities and towns for basic water and sewer facilities. These facilities are extremely important in shaping the growth of a city or town. The funds will thus help our communities to assume more control over their residential growth and economic development. Cities are now faced with ever-increasing needs and a constantly dwindling tax base. Basic investments in critical facilities such as water and sewage systems must often be neglected in favor of immediate and pressing requirements. I hope this provision of the bill will restore a proper balance.

Fourth. The bill continues our efforts to humanize the impact of the urban renewal program. Homeowners in urban renewal areas are sometimes bulldozed out of their homes merely because they lack the money to repair their property. This situation was partially corrected last year when we authorized a new program for loaning these individuals the funds necessary to rehabilitate their homes.

There are many families, however, that are not helped even by the loan program. They are so impoverished they cannot afford to repay any loan no matter how liberal the terms. The obvious solution is to pay for the needed repairs with Federal funds thereby saving demolition and relocation expenses, not to mention the human cost of displacing a family. The bill authorizes up to \$1,500 for such repairs for families with incomes under \$3,000.

II. HOUSING FOR THE POOR

In discussing this bill, I want to call particular attention to the problem of finding decent housing for low-income families. I also want to bring attention to the proposed new method for meeting this problem—the rent supplement program.

During the days of the depression many people looked to the public housing program as a way of providing for that one-third of the Nation that was ill-housed, ill-clothed, and ill-fed. By 1949 Congress lowered its sights and declared we would build 810,000 units of public housing within 6 years. Sixteen years later, and 10 years past the deadline, we still have yet to reach even this modest goal. Only 575,000 public housing units have actually been constructed.

There are many reasons for the failure of Public Housing to house an adequate number of the poor. Of course the program has always evoked controversy and Congress has not always been overly generous in authorizing funds. But the program has also run into great difficulties on the local level. The selection of a public housing site often provokes an extended political tug of war that may take years to resolve. As a result, public housing is having less and less of an impact upon the slum dweller in our larger cities where new projects have been reduced to a trickle. Last year 21 out of the 25 largest cities did not begin any public housing projects at all. The program has been shifting, instead, into smaller towns and also has been focusing

on the needs of the elderly. Nearly half of all the units upon which construction began in 1964 were in cities of under 50,000 in population. Half were built for the elderly.

Although Public Housing has failed to house an adequate proportion of the urban slum dweller, private enterprise has also failed. Almost all new housing is now being constructed for the affluent middle class. There are some who argue that we need not build new homes for the poor—that older homes will trickle down to serve their needs. The evidence shows, however, that by the time this housing trickles down to the poor much of it is either dilapidated or ready for demolition.

For example during the decade of the 1950's private enterprise built over 12 million new housing units. At the same time there has been some reduction in the total number of substandard units. But there has been little change in the worst category of slum housing—units classified by the Census Bureau as dilapidated. This is housing nearly unfit for human habitation.

In 1950 there were 4.5 million families living in dilapidated housing. By 1960 the number had only declined to 4 million. However these figures do not tell the entire story. We did manage to get rid of 3 million dilapidated units during the 1950's but nearly 2.5 million existing units became dilapidated. In other words, despite the housing construction boom during this decade, we created new slums almost as fast as we got rid of the old slums. At this rate it will take 80 years before the worst of our slums are eliminated. I hope that this simple arithmetic will once and for all dispose of the trickle down theory.

The 1960 census also revealed that 8.5 million American families still live in dilapidated and all other categories of substandard housing. The term "substandard housing," by the way, is the euphemism used by statisticians to refer to what we once called slum housing. As might be expected, most of the families who live in substandard housing are poor. Half had incomes under \$2,200; nearly two-thirds made less than \$3,000 a year; three-fourths earned less than \$4,000 a year.

One of the key players in this depressing story is the slum lord who preys upon the ignorance and misfortunes of the poor and extracts an exorbitant profit out of his rundown and rat-infested tenements. In many cases, lax or token code enforcement activities help to maintain the slum lord in the prosperous style of life to which he has become accustomed.

Racial prejudice also works to the advantage of the slum lord. More and more of our cities are being surrounded by suburban subdivisions which exclude members of minority groups. When it comes to housing, members of minority groups have a limited choice and frequently must pay excessive rents to a slum lord for a rundown apartment in or near the core of the city. Of course, this has always been true in our history, starting with the great waves of Irish immigrants who came to America in the

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Issued May 17, 1966
For actions of May 16, 1966
89th-2nd; No. 80

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HIGHLIGHTS: House debated participation sales bill. Senate committee voted to report fair packaging and labeling bill.

HOUSE

1. PARTICIPATION SALES. Began debate on H. R. 14544, to promote private financing of credit needs and to provide a method of liquidating financial assets held by Federal credit agencies. The rule providing for consideration of this bill was agreed to by a vote of 184 to 127. pp. 10062-87
2. INTERIOR APPROPRIATION BILL. House conferees were appointed on this bill, H. R. 14215, which includes Forest Service items. Senate conferees had been appointed. p. 10031

3. SOIL STEWARDSHIP WEEK. Sen. Albert commended this project and inserted the President's proclamation. p. 10032
 4. VETERANS' LOANS. Passed as reported H. R. 7850, to extend the provisions for treble-damage actions to veterans' direct and insured loan cases. pp. 10034-5
 5. COPPER IMPORTS. Passed under suspension of the rules H. R. 12676, to suspend duty on certain copper imports for the period Feb. 9, 1966, through June 30, 1968. pp. 10044-7
 6. BANKING. Rep. Patman claimed Federal bank supervision causes high interest rates and unfair competition for thrift institutions. pp. 10088-9
 7. LABOR STANDARDS. Del. Polanco-Abreu claimed the minimum wage bill is geared toward the mainland situation and that its agricultural and other provisions would harm Puerto Rico. pp. 10089-95
 8. RECREATION. The Public Works Committee reported (May 13 during adjournment) with amendment H. R. 13313, to prohibit certain user fees on Corps of Engineers projects (H. Rept. 1531) (p. 10114). Rep. Cleveland inserted the Interior Department's report opposing this bill (p. 10099-100).
 9. RECLAMATION. Rep. Tunney commended the "Imperial Valley success story." pp. 10105-6
Both Houses
 10. EXPOSITION. Received from the President the recommendations of the Commerce Department regarding Federal participation in the HemisFair 1968 Exposition to be held at San Antonio, Tex. p. 10114, 10133.
 11. WEATHER CONTROL. Received from the President the report of the Federal Council for Science and Technology, "National Atmospheric Sciences Program." p. 10114
 12. CLAIMS. The Judiciary Committee reported with amendments H. R. 13650, to authorize increased agency consideration of tort claims against the Government (H. Rept. 1532); H. R. 13651, to avoid unnecessary litigation by providing for collection of U. S. claims (H. Rept. 1533); H. R. 13652, to provide a statute of limitations for certain actions brought by the Government (H. Rept. 1534); and H. R. 14182, to provide for judgments for costs against the U. S. (H. Rept. 1535). p. 10114
 13. LEGISLATIVE PROGRAM. The House is scheduled to consider the Private Calendar today, to be followed by the participation sales bill and the minimum wage bill. p. D420
- SENATE
14. AWARDS. The Foreign Relations Committee reported with amendments S. 2463, to grant the consent of the Congress to the acceptance of certain gifts and decorations from foreign governments (S. Rept. 1160). p. 10136
 15. MARKETING. The Commerce Committee, on May 13, during adjournment, voted to report "in the nature of a substitute bill" S. 985, the proposed Fair Packaging and Labeling Act. p. D418

Daily Digest

HIGHLIGHTS

Senator Griffin sworn in.

Senate

Chamber Action

Routine Proceedings, pages 10123-10131

Bills Introduced: Nine bills and one resolution were introduced, as follows: S. 3353-3361; and S. Res. 260.

Page 10136

Bills Reported: Reports were made as follows:

During Senate adjournment on Thursday, May 12, the following original resolution was reported under prior authorization:

S. Res. 259, authorizing expenditure of \$5,000 by Committee on the District of Columbia (no written report)—referred to Committee on Rules and Administration.

The following measures were reported today:

S. 2463, granting congressional consent for individuals to accept gifts and decorations of minimal value from foreign governments, with amendments (S. Rept. 1160); and

S. Res. 260 (original resolution), providing for printing with illustrations as a Senate document a study entitled "Policy Planning for Aeronautical Research and Development," prepared for the use of Committee on Aeronautical and Space Sciences (no written report)—referred to Committee on Rules and Administration.

Pages 10116, 10136

Bill Referred: H.R. 12270, respecting loan of equipment to Boy Scouts of America, was referred to Committee on Armed Services.

Page 10133

President's Communication: Communication from President transmitting recommendations of the Secretary of Commerce, together with supporting staff study, on projected participation by U.S. in the HemisFair of 1968 Exposition to be held in San Antonio, was received and referred to Committee on Foreign Relations.

Page 10133

Senator Sworn In: Robert P. Griffin (who has been serving as Representative from Michigan) was sworn in as Senator to fill the vacancy until January 1967 created by the death of the late Senator McNamara.

Page 10116

D.C. Revenue: Senate passed with committee amendment in the nature of a substitute H.R. 11487, proposed D.C. Revenue Act of 1966.

Pages 10131, 10202-10211

Atomic Weapons: Senate made its unfinished business S. Res. 179, expressing the sense of the Senate with respect to the nonproliferation of nuclear and thermonuclear weapons.

Pages 10211-10212

Treaty Ratified: By unanimous vote of 72 yeas, Senate adopted resolution of ratification of Convention on the Settlement of Investment Disputes (Ex. A, 89th Cong., 2d sess.).

Pages 10116-10123

Confirmations: The following nominations were confirmed: H. Ralph Taylor, of Connecticut, and Donald Hummel, of Arizona, each to be an Assistant Secretary of the Department of Housing and Urban Development; Francis M. Wheat, of California, to be a member of SEC; Bernard L. Boutin, of New Hampshire, to be Administrator of Small Business Administration; Robert Emmett Quinn, of Rhode Island, to be a judge of the Court of Military Appeals; numerous postmasters; Gen. Earle G. Wheeler, to be Chairman, Joint Chiefs of Staff, four Air Force in the rank of general; and numerous Navy and Marine Corps.

Pages 10221-10222

Nominations: Senate received the following nominations: One Army in the rank of general; one Navy in the rank of admiral; numerous Air Force, including eight in the rank of general; and one Marine Corps in the rank of general.

Also received on Thursday, May 12, during adjournment of Senate under prior authorization, were the following nominations: William M. McCandless, of Oklahoma, to be Federal Cochairman of the Ozarks Regional Commission; and one judicial.

Pages 10218-10221

Record Vote: One record vote was taken today.

Page 10123

Program for Tuesday: Senate met at noon and adjourned at 5:06 p.m. until noon Tuesday, May 17, when it will consider S. Res. 179, nonproliferation of nuclear weapons.

Page 10218

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—INDEPENDENT OFFICES

Committee on Appropriations: Subcommittee resumed its hearings on H.R. 14921, fiscal 1967 appropriations for independent offices, with testimony in behalf of

funds for the General Accounting Office from Elmer B. Staats, Comptroller General of the U.S.; and in behalf of funds for the General Services Administration from Deputy Administrator Joe E. Moody.

Hearings continue tomorrow on funds for the Department of Housing and Urban Development.

APPROPRIATIONS—NIH

Committee on Appropriations: Subcommittee heard testimony from public witnesses on proposed funds for the National Institutes of Health, Department of HEW.

Hearings continue tomorrow with further testimony of this nature.

FOREIGN AIR CARRIERS

Committee on Commerce: On Friday, May 13, the Aviation Subcommittee held hearings on S. 3197 and S. 3198, to safeguard U.S. airlines against discriminatory acts of foreign air carriers, with testimony from Alan S. Boyd, Under Secretary of Commerce for Transportation; Charles S. Murphy, Chairman, Civil Aeronautics Board; Frank E. Loy, Deputy Assistant Secretary of State for Transportation and Telecommunication; Norman J. Philion, Air Transport Association; James E. Meals, Air Line Pilots Association; John C. Leslie, Pan American World Airways; and Brian A. Cooke, World Airways, Inc.

Hearings were recessed subject to call.

FISH PROTEIN CONCENTRATE

Committee on Commerce: Committee held hearings on S. 2720, to authorize development of a practical means for production of fish protein concentrate, with testimony from Representatives Don H. Clausen and Keith; Dr. Bernard S. Schweigert, Department of Food Science, Michigan State University, and Chairman of the Marine Protein Resource Development Committee of the National Academy of Sciences; Dr. Albert Moseman, Assistant Administrator for Technical Cooperation and Research, AID; and Dr. James R. Dudley, Marine Colloids, Inc., Springfield, N.J. A written statement was submitted for the record by Senator Muskie.

Hearings continue tomorrow.

NOMINATIONS

Committee on Commerce: Committee held hearings on the nominations of William H. Shaw, to be Assistant Secretary of Commerce for Economic Affairs, and Capts. Chester I. Steele and Leo G. Telsey, for promotion to the rank of rear admiral in the Coast Guard. The nominees were present to testify and answer questions on their own behalf.

PACKAGING AND LABELING

Committee on Commerce: On Friday, May 13, committee, in executive session, ordered favorably reported (in the nature of a substitute bill) (S. 985, proposed Fair Packaging and Labeling Act of 1966.

Committee also considered H.R. 13881, to regulate the transportation, sale, and handling of dogs and cats intended to be used for experimental purposes, but did not conclude action thereon, and will meet again tomorrow.

FOREIGN AID AUTHORIZATIONS

Committee on Foreign Relations: Committee continued, in executive session, to consider S. 2859, fiscal 1967 authorizations for foreign aid, and S. 2861, proposed Military Assistance and Sales Act, but did not conclude action thereon, and will meet again Wednesday, May 18.

TAX TREATIES

Committee on Foreign Relations: On Friday, May 13, Subcommittee on Tax Conventions held hearings on supplementary income tax conventions with the Netherlands and the United Kingdom (Executives B and C, respectively, of the 89th Cong., 2d sess.), receiving testimony from Stanley S. Surrey, Assistant Secretary of the Treasury; and Laurence N. Woodworth, Chief of Staff, Joint Committee on Internal Revenue Taxation.

Hearings were adjourned subject to call.

WATER RESOURCES

Committee on Interior and Insular Affairs: Committee began hearings on S. 3107, establishing a National Water Commission to review national water resource problems, with testimony from Stewart L. Udall, Secretary of the Interior; Phillip S. Hughes, Deputy Director, Bureau of the Budget; Lee C. White, Chairman, Federal Power Commission; Eugene W. Weber, American Society of Civil Engineers; Prof. Ray K. Kinsley, department of civil engineering, Stanford University; Roy E. Gaunt, Westinghouse Electric Corp.; Prof. Jerome W. Milliman, department of business administration, Indiana University; John J. Meehan, Chamber of Commerce of the U.S.; Dr. Spencer Smith, Citizens Committee on Natural Resources; and Dr. John Cover, National Parks Association.

Hearings continue tomorrow.

INDIANS

Committee on Interior and Insular Affairs: On Friday, May 13, Subcommittee on Indian Affairs approved for full committee consideration S. 2595, to place in trust status certain lands on the Wind River Reservoir in Wyoming; S. 2948, setting aside certain Montana lands for the Indians of the Confederated Salish and Kootenai Tribes of the Flathead Reservation (amended); H.R. 10476, to retrocede to the State of Kansas concurrent jurisdiction over Haskell Institute; H.R. 12264, declaring that certain federally owned land is held by the U.S. in trust for the Apache Tribe of the Mescalero Reservation, N. Mex.; and H.R. 10431, declaring that certain federally owned land is held by the U.S. in trust for the Minnesota Chippewa Tribe.

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POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
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Issued May 26, 1966
For actions of May 25, 1966
89th-2nd; No. 86

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HIGHLIGHTS: House committee reported screw-worm eradication bill. Sen. Mondale commended fair packaging-labeling bill, to be debated today. Sen. Muskie introduced and discussed intergovernmental personnel bill.

SENATE

1. **MILITARY CONSTRUCTION.** Passed as reported S. 3105, the military construction bill, including an authorization to repay Commodity Credit Corporation for family housing. pp. 10973-81
2. **PACKAGING; LABELING.** The Commerce Committee was authorized to report during recess S. 985, the fair packaging and labeling bill (p. 10998). Sen. Long said the bill will be debated today and is expected to remain the unfinished business over the Memorial Day recess (p. 10973). Sen. Mondale spoke in support of the bill (pp. 10926-8).

3. SCHOOL MILK. Sen. Proxmire defended his special milk bill and said he was shocked by USDA opposition to it. p. 10938
4. RESEARCH ANIMALS. Sen. Brewster spoke in favor of S. 2322, to protect research animals. pp. 10944-5
5. FARM PRICES. Sen. Tower recommended S. Con. Res. 88, to prevent the executive branch from engaging in "price-cutting activities affecting agricultural products," and especially objected to export control on cattle hides. p. 10947
6. WATER POLLUTION. Sen. Muskie inserted an article criticizing the transfer of the Federal Water Pollution Control Administration to the Interior Department. pp. 10981-2

HOUSE

7. SCREW-WORM. The Agriculture Committee reported with amendment H. R. 14888, to authorize this Department to cooperate in screw-worm eradication in Mexico (H. Rept. 1555). p. 10910
8. LIBRARIES. The Rules Committee reported a resolution for consideration of H. R. 14050, to extend and amend the Library Services and Construction Act. p. 10910
9. POSTAL RATES. The Post Office and Civil Service Committee filed a supplemental report to H. R. 14904, to revise postal rates on certain fourth-class mail (H. Rept. 1543, pt II). pp. 10809-10, 10910
10. WATER RESOURCES. The Interior and Insular Affairs Committee voted to report (but did not actually report) S. 2999, amended, to repeal Sec. 6 of the Southern Nevada Project Act relating to intrastate priority for water users, and H. R. 14312, amended, to increase the authorization for continuing work in the Missouri River Basin by the Secretary of the Interior. p. D458
11. LABOR STANDARDS. Continued debate on H. R. 13712, making various amendments to the Fair Labor Standards Act, including its extension to farm labor (pp. 10810-56, 10880, 10897-8). Acted on various amendments to the bill. Rejected, 149-157, an amendment by Rep. Martin to strike the entire agricultural coverage from the bill (pp. 10823-41).
12. EDUCATION. Rep. Curtis spoke in support of the bill to implement the so-called Florence agreement, "an international agreement which provides that signatories remove tariff and other barriers to imported educational, scientific, and cultural materials." pp. 10869-2
13. INFORMATION. Rep. Rhodes, Ariz., criticized the administration's news policy and commended S. 1160, the freedom of information bill. pp. 10883-90
14. FOREIGN TRADE. Rep. Harvey, Ind., inserted, although he stated he did not agree with its conclusions, an article, "'Strategy Strings' Assailed in Food-for-Freedom Program." pp. 10879-80

of the Act of June 27, 1952, the Immigration and Nationality Act. The following relatives who are natives of the Western Hemisphere are subject to employment certification whereas their immigrant counterparts are not:

Sons and daughters of a U.S. citizen, their spouses and children;

Unmarried sons and daughters of an alien lawfully admitted for permanent residence; and

Brothers and sisters of U.S. citizens, their spouses and children.

EXHIBIT 3

Nonquota visa issuances

	December		January		February		March	
	1964	1965	1965	1966	1965	1966	1965	1966
Montreal.....	874	303	906	216	761	311	1,151	408
Toronto.....	875	187	836	120	798	151	1,100	368
Quebec.....	258	85	232	44	213	39	283	92
Vancouver.....	329	71	352	60	320	76	403	121

Quota visa issuances

	December		January		February		March	
	1964	1965	1965	1966	1965	1966	1965	1966
London.....	988	327	963	427	925	564	1,232	875
Paris.....	182	65	170	29	153	48	175	86
Frankfurt.....	656	38	675	87	729	85	851	154
Hamburg.....	219	5	178	27	223	52	282	67
Dublin.....	219	2	306	12	189	22	322	46
Rotterdam.....	196	54	162	66	175	95	165	63
Naples.....	360	2,446	249	1,767	268	1,740	326	2,413
Palermo.....	136	564	129	965	138	978	138	1,185
Vienna.....	85	11	77	12	78	18	118	34
Warsaw.....	392	976	395	591	494	420	606	517
Hong Kong.....	26	328	22	435	12	553	21	904
Manila.....		132	1	251	3	321	3	499
Athens.....	52	341	48	353	77	645	55	1,146

NOTE.—The figures show that at posts which had a heavy preference backlog of relatives of U.S. citizens or permanent-resident aliens, such as Naples, Lisbon, Hong Kong, and Athens, visa issuances since Dec. 1 have shown a substantial increase. These relatives are not subject to labor certification. A substantial decrease has occurred at other posts noted in the above table, where traditionally we have no preference backlogs in the relative categories, and where visa issuance in the past has been heavily nonpreference.

ALLOCATIONS FOR VISA ISSUANCES IN THE VARIOUS PREFERENCES UNDER THE OPERATION OF THE NEW LAW—THROUGH MAY 24, 1966

Additional figures on the allocation of visas in the various preference categories under the new law show a sharp drop in nonrelative immigration as compared to immigration in 1965, which was 80 percent nonpreference.

First preference: Unmarried sons or daughters of U.S. citizens.....	1,537
Second preference: Spouses, unmarried sons or daughters of permanent resident aliens.....	12,599
Third preference: Members of the professions.....	6,407
Fourth preference: Married sons or daughters of U.S. citizens.....	16,121
Fifth preference: Brothers or sisters of U.S. citizens.....	23,616
Sixth preference: Persons capable of performing specified skilled or unskilled labor.....	1,617
Seventh preference: Refugees.....	4,571
Nonpreference.....	8,531
Total.....	74,999

EXHIBIT 4

NEW ENGLAND MEDICAL
CENTER HOSPITALS,
Boston, Mass., May 5, 1966.

Hon. EDWARD M. KENNEDY,
The United States Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The Administration of the Immigration and Nationality Act, as amended by P.L. 89-236, has resulted in a critical nursing shortage in hospitals in Massachusetts. Some hospitals have had to close beds and other hospitals are barely able to maintain a safe standard of nursing care and may be forced to close beds.

A relatively small, but strategic, portion of bedside nursing care in Massachusetts has been rendered by foreign trained professional nurses—mainly from England and Ireland. There are not enough United States nurses available to provide the nursing care needed.

Let me review who these foreign nurses are. First, they are trained and licensed in their own countries. Second, they are carefully screened so that we get especially competent nurses. Third, they work only in hospitals where they are carefully supervised and are assigned responsibilities compatible with their demonstrated knowledge and skills. Fourth, these are nurses who in the opinion of the nursing supervisors, medical staff and patients are completely competent.

We must have foreign trained professional nurses to meet the needs of the sick in Boston and surrounding areas. I cannot state the issue too strongly. We are literally discussing the closing of large segments of major hospitals.

F. Lloyd Mussells, M.D., Director of the Peter Bent Brigham Hospital, states, "From its inception some fifty years ago the Peter Bent Brigham Hospital has encouraged foreign physicians and nurses to come to work at the hospital, for the institution feels that the interchange of information and ideas among people of varying professional backgrounds is extremely beneficial and helpful, and that it leads to better patient care. The Brigham experience with foreign nurses and physicians has been highly satisfactory. Their presence and participation have increased the richness of both our patient care and educational programs."

John A. Harrison, Administrator of the Lynn Hospital, Lynn, Massachusetts, reports, "We have formerly employed between twenty and thirty-five foreign trained nurses at a given time while experiencing a patient occupancy rate in Medicine and Surgery approaching 100% which figure has been con-

stant over the past eight years. To lose the availability of these foreign nurses would mean that more than four nursing floors would have to be closed to patient care, thus seriously affecting our community by denying its citizens the availability of needed beds. This past summer, three patient care units totalling some sixty-two beds were closed as a result of our inability to enable nurses from England, Ireland and Wales to come to Massachusetts and Lynn Hospital."

Dr. Dwight E. Harkon, Clinical Professor of Surgery, Harvard Medical School and Chief of the Department of Thoracic Surgery, Peter Bent Brigham and Mt. Auburn Hospitals, and Past-President of the American College of Cardiology states, "That many of these foreign trained nurses are essential—even our patients' life line for now and the foreseeable future, is clear. That many of these ladies can be trained to assume vital roles in general and specialized areas, I am certain."

Dr. Ralph A. Deterling, Jr., Professor and Chairman of the Department of Surgery of Tufts University School of Medicine and Surgeon-in-Chief of the New England Medical Center Hospitals; Director, First (Tufts) Surgical Service, Boston City Hospital, reports, "From my own observations over a period of twenty years, both in this country and abroad, I can attest to the fact that there are many foreign nurses who could add materially to our effort in providing more and better health services. With the advent of Medicare next July, our pressures will be even greater."

Mr. Robert D. Lowry, Executive Director of the New England Deaconess Hospital, Boston, Massachusetts, states, "We are deeply concerned by the sharp limitations regarding the entry of well-trained foreign nurses into the Commonwealth at a time when the shortage of nurses is so acute, and we are all aware that the shortage is going to be even more serious when Medicare becomes effective."

In a statement by Edwin B. Astwood, M.D., Professor of Medicine, Tufts University School of Medicine; Director of the Clinical Study Unit and Chief of the Endocrinology Service, New England Medical Center Hospitals, he reports, "The Clinical Study Unit of the Tufts University School of Medicine and New England Medical Center Hospitals provides the facility of 14 beds, for clinical research at our institution. The Clinical Study Unit, one of the 80 NIH supported Clinical Research Centers, relies for its successful operation upon the active participation of an expert nursing staff, and includes in its budget sufficient funds to provide 7.8 nursing hours per patient per day."

"We have continued to recruit actively from all possible sources for graduates of American Nursing Schools. In the face of this recruitment at home and abroad, the successful overseas recruitment resulted in 80-85% of our staff being constituted by young women from the British Isles and Ireland. We have been able to maintain our staff more or less consistently at 15 graduate nurses and have been able to fulfill our commitment to clinical research in our institution. This has enabled us to provide for staff support to the conduct of all investigators desiring it and has enabled us to expand the scope of our research activities even beyond the plans included in the original grant request.

"We have found that the nurses recruited from overseas have been highly qualified and have in most instances been able to take part in the activities of our Unit in a superlative way."

There are competent and qualified foreign nurses who are ready and anxious to come to the United States but they cannot get visas. They have been waiting for months and we have been waiting for them for months.

One of the purposes of the amendments in the Immigration and Nationality Act (P.L. 89-236) was to encourage the immigration of members of professions who could substan-

tially benefit the welfare of the United States. [As the law has been administered, the result has been that not a single foreign trained nurse has been granted a visa to come to Massachusetts since January 1, 1966.] It appears that this has been due to the unanticipated hardship resulting from the Rules and Regulations promulgated to administer the amendment to the Act and the difficulty of processing visa applications under these Rules and Regulations by the Massachusetts Board of Registration in Nursing. [It is my understanding that there have been similar difficulties in New York, New Jersey, California, Texas and other States where foreign trained nurses are employed.]

With the advent of Medicare on July 1, 1966, it is most likely that the hospital resources of the country will be put under severe strain. This is the worst possible time to be closing hospital beds and reducing our abilities to care for the sick.

We urge in the strongest possible terms that immediate steps be taken to correct this stoppage of foreign trained professional nurses. There are qualified nurses waiting to come to the United States. We are critically short of nurses. Surely it should be possible to grant visas to these nurses to come to the United States and serve the sick.]

I have sent a similar plea to the Hon. W. Willard Wirtz, Secretary, United States Department of Labor.

Sincerely yours,

RICHARD T. VIGUERS,
Administrator, President, Massachusetts
Hospital Association.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY of Massachusetts. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I note with the greatest interest and considerable gratification that the Senator is active and explicit in continuing to pursue the development of our immigration laws, and not accepting in any spirit of a fortiori the last law which we passed as being the end of the road.

I wish to join the Senator in that respect. I have not yet had an opportunity to analyze every aspect of the Senator's speech; but I shall do so because I hold him in great regard as a friend and as a colleague.

The basic fact that the American people should know is that we had to make a lot of settlements in the Judiciary Committee before we got the immigration law which was passed last year. It is by no means the great body of immigration freedom that some might suppose that it was. It has great problems and difficulties.

The Senator and I both fought and bled with regard to refugees and the Latin American quota, which had not been present before.

In my office in New York we have many immigration cases as I am sure both the Senator from Massachusetts and his brother have.

This problem is beginning to show up. It is not as easy to reunite families as it was thought it would be when the bill was passed. Similarly, the labor certificate problem has been troublesome as well, resulting in hardship and the loss of needed skills for our country.

The cause of immigration reform is very much alive. The Senator is very much enlisted in that cause as I am.

Mr. KENNEDY of Massachusetts. I appreciate the remarks of the Senator.

Mr. JAVITS. I am grateful to the Senator for his speech.

Mr. KENNEDY of Massachusetts. I am grateful for the comments of the Senator from New York.

The Senator is intensely interested in this matter in the Senate and in the immigration law that was passed and signed by the President.

I know that his interest is that many of the injustices that exist under the current law, such as deportation, refugees, and other areas, which are my concern as well, will be corrected.

I remember in the course of debate last year we received assurances from the Attorney General that a message was going to be sent to the Congress outlining the recommendation of the administration on these matters. The Senator from New York questioned the Attorney General and the Secretary of State during the hearings.

I wish to give my assurances to the Senator from New York that we are still waiting for that message. We are extremely hopeful that it will be introduced in the not too distant future.

We have noted the activities of the Department of Justice in sending up recent civil rights legislation. We are restless but we will be patient until we consider many of these matters on the merits.

I know that this matter is close to the Senator's heart.

Mr. JAVITS. I thank the Senator.

MEXICAN-AMERICANS AND AMERICAN INDIANS SHOULD BE INCLUDED IN CIVIL RIGHTS CONFERENCE

Mr. YARBOROUGH. Mr. President, a week from today the White House Conference on Civil Rights will be convened. The power and influence of the most powerful office on earth will be brought to bear upon a major American problem, as it has so many times in the past few years.

I regret that there will be no participation by Mexican-Americans and Indians at this conference. These two minority groups have been the victims of discrimination for hundreds of years. Their problems are great and immediate.

President Johnson has long labored in behalf of the rights and liberties of both of these groups. More than any other President in history, he is aware of their economic and civil liberties problems.

At his news conference Saturday, the President pointed out that the White House Conference flowed from his Howard University speech which focused upon the problems of the Negro. The President said, however, that it would be possible to have a similar conference for the problems of Mexican-Americans.

I endorse the President's proposal and recommend that any such conference include Mexican-Americans, American Indians, and other minority groups which have similar problems of language and cultural barriers to overcome. I hope that plans for such a conference can be announced before the June 1 convening of the White House Conference on Civil Rights so that the commitment of our

Government to protecting the rights of all Americans will be reaffirmed.

I ask unanimous consent that a portion of the President's May 21 news conference be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

15. MEXICAN-AMERICANS

Q. Mr. President, in this same vein, I asked you a couple of months ago about the Mexican-Americans and their unrest. Can you tell me what the situation is today?

A. I went to California on a conference in that field when I was Vice President. I have done everything I could to contribute to a better understanding. I had members of the House who were of Mexican-American ancestry go on a visit with me to Mexico.

During that time we talked about the desirability of a meeting with the Latin-American leaders in the United States, that is, the Mexican-Americans. Since then, some of my people in the White House have had conferences with members of the House and Senate, and other leaders of various organizations, the G.I. Forum, the Lulacs, the veterans' organizations, and others.

We have been concerned about the special problems of the Mexican-Americans and other Spanish-speaking peoples in our country. I am very familiar with those in the Southwest.

We hope that we can arrange a meeting to invite the Mexican-American leaders and others to the White House to meet with members of the staff and probe more deeply into their problems and the actions that can be taken.

I have tried to find qualified employees for the Government from this group. I now have a good many requests out for recommendations.

16. RACIAL CONFERENCE

Q. What about the White House conference coming up? Will that include members of that group? A. No, the White House conference flowed from my Howard speech but we will be glad to have one of the same type for their problems.

AUTHORITY TO SIGN BILLS, RECEIVE MESSAGES, AND FILE REPORTS

Mr. SPARKMAN. Mr. President, I ask unanimous consent that during the adjournment of the Senate after close of business today, the Secretary of the Senate be authorized to receive messages from the President of the United States and from the House of Representatives; the Vice President and the President pro tempore be authorized to sign enrolled bills; and committees be authorized to file reports including the report of the Committee on Commerce on S. 985, together with minority, separate, additional, and individual views thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. SPARKMAN. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock tomorrow noon.

The motion was agreed to; and (at 2 o'clock and 27 minutes p.m.) the Senate adjourned until tomorrow, Thursday, May 26, 1966, at 12 o'clock meridian.

say this kind of thing, their lack of knowledge of group dynamics will come out in another way. What we really need are workshops in group dynamics and group therapy for the teachers, especially teachers of young children. I ran such a workshop once for a year at the Institute for Gestalt Therapy. We had about ten in the class—private-school and public-school teachers. Then I tried it at City College, but there were thirty-five in the class, and that was too many. Sometimes what comes to the surface can be very wounding, and there's no chance to assuage the hurt before the period ends. We need small groups—no more than eight teachers—and the workshops should last one or two years, under instructors who have had expert training in psychology."

Since my last visit to P.S. 119, I told Shapiro, I had heard some criticism of his methods from a woman he knew of, who has long been active in organizations devoted to bringing about greater integration in the public schools and to improving the education of all slum children. She had told me that, though she admired Shapiro very much, she still felt that his students weren't scoring as high as they should in tests. "It may be that all the understanding they get in that school, while it does help them develop a better self-image, doesn't help them achieve," she had said. "Shapiro is like from another world. He has the kind of values all of us ought to have. But when those kids leave the school, they aren't going into his kind of world. They're going into a world that's increasingly competitive, and increasingly automated as well. Maybe it damages a kid to push him, but I keep wondering whether Shapiro isn't damaging them in another way. Are his kids going to have enough competitive drive to do more than survive?" I told Shapiro what the woman had said and asked him what he thought of it.

"I agree with her, at least on the point that our children don't achieve enough," he said. "We're far behind. And yet our children are achieving more, as a group, than children used to achieve here in the past, and there is no school in a poverty-stricken neighborhood in which children are any more successful at reaching a plateau of reasonable efficiency. And our children are at least achieving the courage of their convictions. The very fact that Mr. Marcus's fifth-graders were able to write critically to publishers and to superintendents about the inadequacies of social-studies textbooks is an indication that they may have the spirit to contend with what lies ahead. It's just because the children are going to have to live in an automated world that it's imperative for them to remain human beings. This is one more reason that it's vital for children of all kinds of backgrounds to be in small enough classes so that they can have close and pleasurable relationships with adults. All of us are becoming more and more like I.B.M. machines in an increasingly organized and rationalized society, and all children ought to have the experience of real human contact, so they'll remember later on that human contact is both permissible and pleasurable. And our kids, of course, need that most of all."

I asked Shapiro about an observation I had heard from a parent of a child in his school that at P.S. 119 it was the middle group—rather than the best and the worst of students—that was often overlooked.

He nodded. "Around 1955, I became aware of the fact that no child in the school at the time was going to make it to college," he said. "It seemed to me that we therefore had to put a sizable amount of the resources we had into working with those children who seemed to be the most likely achievers. And since those resources were so few, we had very little left over. Now, barring catastrophic circumstances in junior

high school, in high school, in their lives, and in the community, twenty per cent of our children have a good chance to reach college. That's a great improvement, but the degree of our deprivation can be measured by the fact that sixty per cent of all children in the country are now reaching college. What about the others here? While we were focusing most of our energy and resources on the better achievers, we were also trying to make the entire school a place more favorable, as it were, for human contact—a freer place in which to teach and in which to be a child. Gradually, we were able to develop a relatively stable staff, so that the middle range of children would have a sequence of teachers who were relatively more experienced than those the children used to have here. And there has been some degree of improvement in the achievement of the middle children. But the fact remains that after we get past the best achievers, there is a precipitous drop. We have a long way to go. And we need a great deal of help.

"What we particularly need, of course, is smaller classes," Shapiro said. "A start has been made in that direction by the More Effective Schools plan that was adopted in the city a couple of years ago, and it's an example, by the way, of how a strong teachers' union can institute basic changes in the school system. Essentially, the plan was formulated by the U.F.T., although the plan the union advanced was initially rejected. Finally, the superintendent of schools set up three groups of planners—one from headquarters, one from supervisory personnel, and one from the U.F.T. Only the U.F.T. came in with a cohesive plan, and that was the one adopted, with some additions, compromises, and improvements. The U.F.T. plan provided, for example, that no More Effective School would contain more than eight hundred pupils. The compromise was one thousand. But what did go through involved greatly increasing the number of teachers and specialists and greatly reducing the size of classes—cutting them in half in certain schools. I was a consultant on class size, incidentally, and I recommended one adult to twelve children. In 'Slums and Suburbs,' you may remember, Conant pointed out that in the wealthiest suburban areas the ratio is one to fourteen. The idea of reducing class sizes that drastically was turned down twice by the Board of Education—almost scornfully. They called the idea visionary, because, they said, there weren't enough teachers. But we're at the end of the teacher shortage. The first wave of Second World War babies is moving into adulthood, and many of them are becoming teachers, so it's unrealistic to keep planning on the basis of a lasting shortage of teachers. At any rate, the More Effective School program did get a small start in ten elementary schools in September of 1964, and about ten more were added a year later, but no funds are being allocated to extend the program. Despite all the drawbacks, the most recent test scores indicate that the plan is working. For the first time in recorded history, as far as I know, children in slum neighborhoods are achieving one month's scheduled improvement—or better—for each month they're in class. But despite these signs of success, there are strong forces in the system that are opposed to a really substantial increase in the number of More Effective Schools. My guess is that those people are worried about costs. They forget that children are worth everything we can give them."

A tall young Negro with glasses had come into Shapiro's office while he was talking, and Shapiro introduced me to him. He was the caseworker with the Bureau of Attendance who had been assigned to John. The principal excused himself after a secretary beckoned to him from the outer office to let him know that a child wanted to see him,

and when we were alone, the caseworker began comparing Shapiro with other principals he dealt with. "Most of them don't want to make any waves," he said. "Waves might mean trouble—might blemish their record with the Board. So their schools are little ivory towers, with nobody taking any responsibility for what's going on in the community. Some principals are so damn insecure they actually try to isolate their schools from the community. They're just plain afraid, and both the staff and the children sense the fear. In schools like that, the children are really in control. The reactions of the staff and the supervisory personnel are built around their fear of the children."

At that moment, John himself appeared in the doorway. In his right hand was a gun. "If that's loaded—" the caseworker said. He held up a hand as if to defend himself, and John shot a thin stream of water against it. The boy doubled over with laughter. As he went over to the copying machine and set to work, he was still laughing.

The caseworker smiled and took up the thread of what he had been telling me. "I get around to about twenty-five schools in the Harlem area, and, believe me, Dr. Shapiro is very unusual. He never underestimates what these kids could become. Why, sheltered children exposed to what these kids go through would collapse right away. Some of these kids can be caught in time and given help. Even some of the ones who don't get help will live reasonably O.K. lives, except that they'll never realize anything like their full potential. And some, of course, are just plain doomed."

NAT HENTOFF.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

LEGISLATIVE PROGRAM

Mr. LONG of Louisiana. Mr. President, for the information of the Senate, it is planned to have the truth in packaging bill, which we expect to have reported today, laid before the Senate and made the pending business tomorrow, and it is anticipated that that matter will be before the Senate and that it will remain the unfinished business over the Memorial Day recess.

AUTHORIZATION OF CERTAIN CONSTRUCTION AT MILITARY INSTALLATIONS

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3105, the military construction bill.

The PRESIDING OFFICER. The bill will be stated by the title.

The LEGISLATIVE CLERK. A bill (S. 3105) to authorize certain construction at military installations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services with an amendment to strike out all after the enacting clause and insert:

TITLE I

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including site preparations, appurtenances, utilities and equipment for the following projects:

Inside the United States

United States Continental Army Command (First Army)

Fort Devens, Massachusetts: Troop housing, \$7,117,000.

Fort Dix, New Jersey: Training facilities, \$1,914,000.

Fort Eustis, Virginia: Training facilities, and maintenance facilities, \$445,000.

Fort Knox, Kentucky: Training facilities: \$2,470,000.

(Third Army)

Armed Forces Examining Entrance Station, Montgomery, Alabama: Administrative facilities, \$235,000.

Fort Campbell, Kentucky: Operational facilities, \$355,000.

Fort Gordon, Georgia: Troop housing, \$12,630,000.

Fort Jackson, South Carolina: Training facilities, \$2,631,000.

Fort Rucker, Alabama: Operational facilities, \$318,000.

(Fourth Army)

Fort Bliss, Texas: Training facilities, maintenance facilities, and research, development and test facilities, \$4,936,000.

Fort Hood, Texas: Training facilities, and utilities, \$1,871,000.

Fort Polk, Louisiana: Training facilities, \$861,000.

(Fifth Army)

Fort Riley, Kansas: Troop housing, \$3,100,000.

(Sixth Army)

Fort Ord, California: Training facilities, \$596,000.

United States Army Materiel Command
Atlanta Army Depot, Georgia: Utilities, \$237,000.

Charleston Army Depot, South Carolina: Utilities, \$200,000.

Edgewood Arsenal, Maryland: Research, development, and test facilities, and utilities, \$3,293,000.

Frankford Arsenal, Pennsylvania: Supply facilities, \$249,000.

Natick Laboratories, Massachusetts: Research, development, and test facilities, \$109,000.

Picatinny Arsenal, New Jersey: Research, development, and test facilities, \$620,000.

Redstone Arsenal, Alabama: Research, development, and test facilities, \$600,000.

Rock Island Arsenal, Illinois: Research, development, and test facilities, \$3,246,000.

Sharpe Army Depot, California: Maintenance facilities, \$158,000.

Watervliet Arsenal, New York: Research, development, and test facilities, \$955,000.

White Sands Missile Range, New Mexico: Research, development, and test facilities, \$2,336,000.

United States Army Security Agency

Vint Hill Farms Station, Virginia: Operational facilities, \$145,000.

United States Army Strategic Communications Command

Fort Lewis, Washington: Maintenance facilities, \$916,000.

Fort Ritchie, Maryland: Utilities, \$397,000.

United States Army Alaska

Fort Richardson, Alaska: Operational facilities, and supply facilities, \$1,001,000.

Fort J. M. Wainwright Alaska: Utilities, \$110,000.

Outside the United States

United States Army Pacific

Okinawa: Utilities, \$619,000.

United States Army Forces, Southern Command

Panama Canal Zone: Operational facilities and utilities, \$2,011,000.

United States Army Materiel Command
Kwajalein Atoll: Research, development and test facilities, \$31,333,000.

United States Army Security Agency

Various locations: Operational facilities, maintenance facilities, supply facilities, administrative facilities, troop housing and community facilities, and utilities, \$1,970,000.

United States Army Strategic Communications Command

Various locations: Operational facilities, \$208,000.

SEC. 102. The Secretary of the Army may establish or develop classified military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$33,000,000.

SEC. 103. (a) Public Law 85-241, as amended, is amended under the heading "INSIDE THE UNITED STATES" in section 101, as follows: (1) Under the subheading "TECHNICAL SERVICES FACILITIES (ORDNANCE CORPS)", with respect to "Anniston Ordnance Depot, Alabama", strike out "\$2,015,000" and insert in place hereof "\$2,881,000."

(b) Public Law 85-241, as amended, is amended by striking out in clause (1) of section 502, the amounts "\$119,330,000" and "\$296,809,000," and inserting in place thereof "\$120,196,000" and "\$297,675,000," respectively.

SEC. 104. (a) Public Law 87-554, as amended, is amended under the heading "INSIDE THE UNITED STATES" in section 101, as follows: (1) Under the subheading "TECHNICAL SERVICES FACILITIES (Ordnance Corps)," with respect to "Detterkenny Ordnance Depot, Pennsylvania", strike out "\$411,000" and insert in place thereof "\$466,000."

(b) Public Law 87-554, as amended, is amended by striking out in clause (1) of section 602, "\$102,315,000" and "\$150,824,000" and inserting in place thereof "\$102,370,000" and "\$150,879,000", respectively.

SEC. 105. (a) Public Law 88-174, as amended, is amended under the heading "INSIDE THE UNITED STATES" in section 101, as follows:

(1) Under the subheading "CONTINENTAL ARMY COMMAND (Second Army)", with respect to "Fort Belvoir, Virginia", strike out "\$1,083,000" and insert in place thereof "\$1,213,000."

(2) With respect to "section 102", strike out "\$8,900,000" and insert in place thereof "\$9,112,000."

(b) Public Law 88-174, as amended, is amended by striking out in clause (1) of section 602, "\$155,696,000", "\$8,900,000", and "\$200,353,000", and inserting in place thereof "\$155,826,000", "\$9,112,000", and "\$200,695,000", respectively.

SEC. 106. (a) Public Law 88-390, as amended, is amended under heading "INSIDE THE UNITED STATES" in section 101, as follows:

(1) Under the subheading "CONTINENTAL ARMY COMMAND (Second Army)", with respect to "Fort Belvoir, Virginia", strike out "\$3,564,000" and insert in place thereof "\$4,113,000."

(2) Under the subheading, "CONTINENTAL ARMY COMMAND (Second Army)", with respect to "Carlisle Barracks, Pennsylvania", strike out "\$5,244,000" and insert in place thereof "\$5,808,000".

(3) Under the subheading, "CONTINENTAL ARMY COMMAND (Second Army)", with respect to "Fort Knox, Kentucky", strike out "\$7,778,000" and insert in place thereof "\$8,566,000".

(4) Under the subheading, "CONTINENTAL ARMY COMMAND (Third Army)", with respect to "Fort Benning, Georgia", strike out "\$5,452,000" and insert in place thereof "\$6,483,000".

(5) Under the subheading, "CONTINENTAL ARMY COMMAND (Fifth Army)", with respect to "Fort Benjamin Harrison, Indiana", strike and "\$1,652,000" and insert in place thereof "\$1,836,000".

(6) Under the subheading, "CONTINENTAL ARMY COMMAND (Sixth Army)", with respect to "Presidio of San Francisco, California", strike out "\$283,000" and insert in place thereof "\$349,000."

(7) Under the subheading "ARMY COMPONENT COMMAND (Alaska Command Area)," with respect to "Fort Richardson, Alaska," strike out "\$767,000" and insert in place thereof "\$882,000."

(b) Public Law 88-390, as amended, is amended by striking out in clause (1) of section 602, "\$249,697,000" and "\$300,758,000", and inserting "\$252,994,000" and "\$304,055,000", respectively.

SEC. 107. (a) Public Law 89-188 is amended under heading "Inside United States" in section 101, as follows:

(1) Under the subheading, "CONTINENTAL ARMY COMMAND, LESS ARMY MATERIEL COMMAND (First Army)", with respect to "Fort Devens, Massachusetts", strike out "\$11,008,000" and insert in place thereof "\$11,964,000".

(2) Under the subheading, "ARMY MATERIEL COMMAND", with respect to "Jefferson Proving Ground, Indiana", strike out "\$52,000" and insert in place thereof "\$71,000".

(3) Under the subheading, "ARMY MATERIEL COMMAND", with respect to "Sharpe Army Depot, California", strike out "\$175,000" and insert in place thereof "\$261,000".

(b) Public Law 89-188 is amended by striking out in clause (1) of section 602, "\$252,661,000" and "\$309,522,000", and inserting "\$253,722,000" and "\$310,583,000", respectively.

TITLE II

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including site preparation, appurtenances, utilities, and equipment for the following projects:

Inside the United States

Bureau of Ships facilities

Naval Shipyard, Boston, Massachusetts: Operational facilities, \$65,000.

Naval Shipyard, Bremerton, Washington: Operational facilities, maintenance facilities, and utilities, \$1,928,000.

Naval Shipyard, Charleston, South Carolina: Maintenance facilities, \$535,000.

Naval Shipyard, Long Beach, California: Maintenance facilities, \$49,000.

Naval Shipyard, Norfolk, Virginia: Operational facilities, and maintenance facilities, \$1,628,000.

Naval Shipyard, Pearl Harbor, Oahu, Hawaii: Operational facilities, and maintenance facilities, \$940,000.

Naval Shipyard, Philadelphia, Pennsylvania: Operational facilities, and maintenance facilities, \$1,368,000.

Naval Shipyard, Portsmouth, New Hampshire: Operational facilities, and utilities, \$295,000.

Naval Shipyard, San Francisco Bay, California: Maintenance facilities at Hunters Point and on Mare Island, \$2,782,000.

(Research, Development, Test, and Evaluation Stations)

serve in the military service is riddled with inequities, only a small percentage of our young men are actually ever inducted and asked to give 2 years of their life in the service of their country.

This is obviously unfair. Those who go into the service suffer an interruption of their normal activities, and even though they have the opportunity to advance their education, or to learn a trade, in many ways they are 2 years behind other young men who do not go into the service in finding their place in life and getting established in it. The fact that many of those who are being inducted during the Vietnam war are subject to military service which takes them into danger makes the present system of choosing our inductees even more inequitable.

The time may have come in the history of our country, and in the history of the world, when we should ask each young person to devote 2 years of his life to his country in some capacity. It need not necessarily be in the military service. It could be in the Peace Corps, or in the National Service Corps. It could be in conservation work in our national forests or on our depleted national lands, similar to the service in the CCC during the depression. It might even be on our farms in helping to harvest crops we need for our expanding populations. We need information as to possible spheres of service as well as information about the impact of such service on our young men and women.

The fact that nonmilitary service would be available as an alternative to military service does not, in my estimation, mean that we would not be able to fill our military requirements under a plan of universal national service. Many of our young men would prefer military service to other types, and if such service was more rigorous or dangerous than other types of service, it might be more attractive by reason of this very fact. Moreover, there is added compensation of GI benefits for military veterans.

Now, I realize that the idea of universal national service may be repugnant to many people, and that it may not be practical. Also, there may not be enough nonmilitary jobs which our youth could fill with satisfaction to themselves and benefit to the country. But this is something we should find out.

I hope therefore that when the resolution of the distinguished Senator from Wisconsin is considered by the Armed Services Committee, the big picture of our national needs and commitments in fields other than the military will also be considered, and that any resolution which is reported will provide for a study of national military and nonmilitary service, and not just a study of our selective service policies.

ADDITIONAL COSPONSOR OF AMENDMENT NO. 565

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the name of the junior Senator from Massachusetts [Mr. KENNEDY] be added as a cosponsor of amendment 565 to S. 3102, the Allied Health Professions Personnel Training Act, at the next printing of the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF REFERENCE

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be discharged from further consideration of the bill (H.R. 11927), and that it be referred to the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF REFERENCE

Mr. SPARKMAN. Mr. President, on May 13, the Department of Defense sent a proposal to the Senate which is designed to provide certain relief for civilian employees and servicemen homeowners whose properties are situated at or near military installations which have been ordered to be closed by the Secretary of Defense on or after November 1, 1964.

This proposal was subsequently referred to the Armed Services Committee of this body. I do not wish to engage in a length discussion of committee jurisdiction over this proposal, and I think it suffices to say that the proposal should have been referred to the Banking and Currency Committee. I say this because a similar provision was contained in the Housing and Urban Development Act of 1965, that is section 108, and this proposal of the Department of Defense represents an alternative to section 108. The Department proposal would, in fact, repeal section 108.

I have conferred with the distinguished chairman of the Armed Services Committee, Senator RUSSELL, and also the distinguished chairman of the Military Construction Subcommittee of the Senate Appropriations Committee, Senator STENNIS, regarding committee jurisdiction of the Department's proposal. They both acquiesce in the idea that since the Banking and Currency Committee dealt with the subject matter of the Department's proposal last year this matter should be again considered this year by the Banking and Currency Committee. They did request, however, that a slight modification be made in the Department's proposal. I, therefore, ask unanimous consent to have the Department's proposal, which was transmitted to the Senate on May 13, referred to the Banking and Currency Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF HEARING ON NOMINATION OF JOHN J. HICKEY, OF WYOMING, TO BE U.S. CIRCUIT JUDGE, 10TH CIRCUIT, VICE JOHN C. PICKETT, RETIRED

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Wednesday, June 1, 1966, at 10:30 a.m., in room 2228 New Senate Office Building, on the nomination of John J. Hickey, of Wyoming, to be U.S. circuit judge, 10th Circuit, vice John C. Pickett, retired.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi, chairman, the Senator from Arkansas [Mr. McCLELLAN], and the Senator from Nebraska [Mr. HRUSKA].

NOTICE CONCERNING NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. McCLELLAN. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Gerald E. Murch, of Maine, to be a member of the Board of Parole for the term expiring September 30, 1971 (reappointment).

Roland S. Mosher, of Arizona, to be U.S. marshal, District of Arizona, term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, June 1, 1966, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearings which may be scheduled.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. SCOTT:

Address entitled "Agriculture and Economic Growth," delivered by H. J. Heinz II, before the International Advertising Association in Mexico which will appear hereafter in the Appendix.

Letter to him from Lt. Gen. Milton G. Baker, superintendent of Valley Forge Military Academy, regarding a visit of 55 Valley Forge cadets to Rome, Italy.

By Mr. METCALF:

An article entitled "I Have Need of the Sky, I Have Business With the Grass," dealing with wilderness trips available in the West, written by Jeanne Beaty and published in the New York Sunday Times of May 22, 1966.

An article dealing with the role of the Bureau of Reclamation power program.

By Mr. SALTONSTALL:

A historical sketch on Holden, Mass., on the occasion of the celebration of its 225th anniversary.

By Mr. THURMOND:

An article entitled "LBJ Clamp on Food Prices Compared With Inflation," written by Ben Leonard and published in the Greenville (S.C.) News.

LESSONS OF ADVERSITY

Mr. LONG of Louisiana. Mr. President, there appeared in the Washington Post this morning a very interesting editorial which reduced to absurdity the argument of those who contend that this Nation should be faint of heart and should cease its efforts in Vietnam, because of difficulties that plague the government of a small and remote country.

The President has very wisely decided that this Government will remain firm in its support of the Government of South Vietnam, that we will stand firmly behind the government which wishes to have free elections, and abide by the results of those elections. As an individual Senator, I applaud the decision of the President and the Secretary of State to remain firm and steadfast in support of our friends in that area.

From hindsight, in my opinion, this Nation could perhaps be regarded as having made a mistake insofar as it failed to do everything that could have been done to support President Diem when he was in charge in Vietnam. We have seen what happens when a government falls and it is necessary for people in a small country to try to establish and rebuild confidence in a new government. In the effort that is being made there to establish a government supported by the people in a free election, it is extremely important that this Nation should stay by its friends.

As the editorial so well points out, if this Nation is only to support people in defense of their independence and freedom when they have a stable government, when they are located close to the United States, when they have other allies and friends to come to their aid and assist them; if we are to support only that kind of government, then in short order we will find ourselves defending our own boundaries and our own shores, and we will not be plagued by all the problems that beset small, new nations that lie in an exposed position.

If we take that attitude, then, sooner than most people realize, we will find that we are defending a nation that does not have all those problems. We will be defending a nation that has a stable government, a great nation, a nation that is very close to our hearts—because the nation we will be defending will be the United States of America. It will not be beset by the problems of small, weak governments. But, by the same token, we will not have the advantage of great oceans and friendly governments lying between us and those who seek to destroy us.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "Lessons of Adversity," published in the Washington Post for Wednesday, May 25, 1966.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LESSONS OF ADVERSITY

The crisis in South Vietnam is producing a great deal of reflection in this country, not only about the United States role there, but about the American role elsewhere in the world where like situations may arise. Painful as this reflection may be, it is necessary, useful and constructive as a means of developing policy in a democratically governed society. Instruction based on theoretical example is never as well remembered as that derived from actual experience. The experience we are living through now is a teacher we cannot despise.

The critics of American presence in South Vietnam make some accusations that are not easily answered. They say South Vietnam is a very small country, and this cannot be denied. They say it is a very weak coun-

try, and this can hardly be disputed. They say it is a very divided country, and no one can gainsay it while Buddhists are attacking the troops of their own government and those of its allies, while Catholics and Buddhists stage demonstrations and counterdemonstrations. They say that it never has had and does not now have familiarity with democratic institutions and this is true. They say that South Vietnam lies in an area of Chinese Communist influence and in close proximity to Communist power and this cannot be contradicted.

It is only at grave risk that a great power assists a small, weak and divided country to resist aggression. The lesson seems plain. Hereafter let United States assistance be reserved for victims of foreign aggression only when they are large, powerful, united, democratic and far away from any Communist power. Such assistance will not involve us in the great risks that are involved in helping the small, the weak, the divided and the vulnerable. The great and powerful nations we assist will make good use of our aid. They will not fritter it away. They will not waste their strength and ours in internal bickering and quarreling. Their efficient, peaceful and capable utilization of our aid will be a source of continual satisfaction and expanding power. Thus we shall make our large friends invulnerable, ourselves secure and obtain peace in our time. Once the world has grasped our policy, Communist nations will attack only small countries. Inasmuch as we will defend only large ones, there will be no more East-West conflict.

Of course, there will come a time when all the small, weak and divided countries have been reduced by aggression. But any war that follows that development is bound to be cozily close at hand. In order to fight it, we will not have to run the risks of transporting troops great distances. Our soldiers will not have to give battle in strange surroundings or in a disagreeable climate. They will not be exposed to the temptations of alien brothels but can revel in the luxury of home-grown sexual immorality.

Such are the lessons of adversity to be gained from the difficulties encountered in South Vietnam.

FAIR PACKAGING AND LABELING ACT

Mr. MONDALE. Mr. President, the Commerce Committee has just reported an amended S. 985 to be known as the Fair Packaging and Labeling Act. The original bill was introduced by the distinguished senior Senator from Michigan, and I was privileged to be a cosponsor. Senator HART deserves great credit for his long and skillful championing of this bill, as the New York Times has stated in an editorial last Sunday.

I now urge passage of the bill as it has emerged from committee, and I believe that it will be of great benefit to the consumer and the ethical business community as well.

The consumer, Mr. President, is being bilked. He is a member of an abused majority, and it is not his fault. He spends some \$80 billion a year on "kitchen and bathroom" articles, as Senator HART has pointed out, and because of existing packaging and labeling practices, he has great difficulty in spending it wisely.

As an example, 33 women who were college graduates were told to buy the lowest priced of a representative 20 supermarket items. They took nearly two and one-half minutes per item, which is

nearly three times that taken by the usual shopper.

With 43 percent of the items, these women decided wrong and failed to select the cheapest product. All of them selected the cheapest sugar, because sugar comes in standard 1-, 5-, and 10-pound packages. But none of them selected the cheapest detergent.

When soap powder is sold in a "regular" size package of 1 pound, 6 ounces at 32 cents, in a "giant" size of 3 pounds, 5½ ounces at 79 cents, and in a "king" size of 5 pounds, 11 ounces at \$1.33, it is virtually impossible to tell that the regular size is in fact the cheapest. And this is not a fictitious example.

I was impressed with one letter which appears in the committee hearings from a man and his wife who have solved the problem by doing all of their shopping with the aid of a slide rule, which they found necessary to determine which items were the best buy. I admire this couple, but suggest that when a consumer cannot do a decent job of shopping in a supermarket without a slide rule, something is really wrong.

The shopping problem is further complicated by the fact that in many cases the weight or volume of the contents is so placed on the package that it is nearly impossible for the shopper to find it.

The Fair Packaging and Labeling Act will help correct these abuses. It proceeds from a recognition that the very heart of our economy is open competition in a free marketplace. In the final analysis, the full and free play of competition is the best protection the consumer can have. But competition is meaningless unless there can be an informed choice by the buyer. Price and quantity must be easily compared. The bill in its present form represents a good faith compromise between the need for consumer protection and the realities of modern merchandising. For that reason it is not as sweeping as the original bill. But it still contains important consumer protections which will set ground rules benefiting the ethical packager as well. It recognizes the mutual interests of the producer and consumer.

The first thing the bill would do is to require a clear and conspicuously placed statement on the label of the net quantity in the package. It would be a plain factual statement, such as "8 ounces," not a "giant half pound."

Another major protection for the consumer is in section 5(d) of the bill. When the regulating agency concludes, after a hearing, that the weights or quantities in which a commodity is being distributed are likely to impair the consumer's ability to compare prices per unit, the agency can issue regulations establishing reasonable weights or quantities in which the commodity can be sold.

In other words, instead of having potato chips sold in 71 different weights making true comparison impossible, a reasonable number of standard sizes could be established. This does not mean that there is any authority to make packages look the same; there will be plenty of room for variety. It does mean that no matter how differently styled

they are, the housewife will have one 12-ounce package to compare with another 12-ounce package, and she can draw sensible conclusions when one costs more.

When the regulating agency decides that standards of weight or volume should be set, the industry concerned can move to work out its own voluntary standards under procedures established by the Secretary of Commerce, and it has a year or in some cases a year and a half to do it. We would hope that industry will in most such cases take the lead in establishing standards in a process where consumers are represented, as the bill requires.

The bill authorizes the regulating agency to take other actions when necessary to prevent deception or to permit price comparison. Regulations can be passed to eliminate confusion over "king size," "giant size", and such names in a product line. Labels such as "4 cents off" can be regulated. "Four cents off" what? The producer or distributor who puts the label on does not know, and neither does the consumer.

Such regulations may also be issued to set a quantity for a "serving" when foods are labeled by the serving. I would hate to sit six people down to dinner at my house and give them courses of some packaged foods represented as "serving six." If a "serving" always meant the same thing, I could adjust for it according to my appetite, but the point is that it doesn't mean the same thing each time.

When there is no standard, two persons suffer. The first is the consumer, who unknowingly pays more for a product because it supposedly has more servings. The other loser is the ethical producer—the one who means a full serving when he says "serving." This bill will remove the unfair advantage of the producer who says a "serving" when he means a half a serving.

It may appear that we are talking about pennies, and in the case of any individual item, we are. But the total economic effect of misleading packaging is great, to the individual consumer and to the economy.

In the example of the 33 college-educated housewives who failed 43 percent of the time to select the cheapest product, they paid a total of 9 percent more than they would have if they had selected the cheapest item in every case. We can only speculate how much greater this percentage may be in the case of the less educated consumer, and what impact such higher percentage has on the poor. True, the housewife may not always want the least expensive product. But she should at least be able to tell which it is and select it if she wants it.

The consumer who is a retired person on a small pension, or who has a large family and small salary, is the one most likely to try to select the least expensive goods. And when a consumer family spends up to \$250 per year extra just because it is impossible to tell which items are cheapest, it is not pennies at all.

We talk about preventing inflation. But has anyone realized the tremendous inflationary effect which occurs when

consumers who are buying \$80 billion worth of packaged goods are spending 9 percent more than they need or want to? Nine percent extra spent for such items is greater than the total increase in consumer prices over the last 5½ years. This inflationary effect is caused by misleading packaging practices, and the money goes to those who are engaged in them. It does not go to the people who grow the food. Of the \$105 increase in per capita food expenditures over a 14-year period, less than 1 percent of that money has gone to the farmer.

The consumer will spend less if he can—that is what he is being asked to do to prevent inflation. But he cannot do that unless there is some way for him to determine which product on the shelf is cheaper. Enactment of the Fair Packaging and Labeling Act would give the consumer the weapon he needs for his own self-defense.

I ask unanimous construct to have printed in the RECORD the editorial from the New York Times of May 22, 1966, entitled "Reforms for the Consumer."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York (N.Y.) Times,
May 22, 1966]

REFORMS FOR THE CONSUMER

After four years of public discussion, committee hearings and extensive revision, a truth-in-packaging bill is now nearing a vote in the Senate. Its approval by the Senate Commerce Committee is a tribute to the perseverance of the bill's sponsor, Senator PHILIP HART, of Michigan.

The bill would afford consumers some necessary and elementary protection when they shop for food, drugs, cosmetics and toilet articles. At the same time it meets many, though not all, of the objections of manufacturers who have expressed fear that strict Federal controls will inhibit competitive merchandising. In its mandatory sections the bill requires manufacturers to state on their labels the exact contents of the package and either a numerical count of its contents or its net weight in ounces. In this way the buyer will be able to compare the prices of different makes and sizes. Misleading verbiage is forbidden. The bill also grants discretionary authority to Federal authorities to develop additional regulations for specific kinds of products.

Although the bill could usefully have been more stringent in some respects, it is nevertheless a reasonable compromise. Its prospects for approval in the Senate appear to be good; but if action is to be completed in this Congress, it is imperative that the House Commerce Committee begin work promptly. And now that the truth-in-packaging bill has finally cleared its committee, this should be a signal to the Senate Banking Committee to take up a companion measure, the truth-in-lending measure introduced by Senator PAUL DOUGLAS, of Illinois. Consumers are as unwary—and as much in need of Federal protection—when they go shopping for credit as when they buy food in the supermarket.

Mr. LAUSCHE. Mr. President, while I voted in favor of reporting S. 985, the Fair Packaging and Labeling Act, to the full Senate, I reserved at that time the right to oppose the bill on the floor of the Senate.

I wish to point out that I want to protect the consumer in the fullest degree against any deceptions practiced by the manufacturers or distributors of pack-

aged articles. There is no issue with me about the need of such protection. The issue is whether or not under existing Federal laws, the executive branch of the Government has already been vested with coercive powers adequate to protect the consumer and make the manufacturer or distributor answerable to criminal prosecution and injunctive relief favoring the consumer by ordering a complete cessation of practices that are deceptive.

At present, the Federal laws contain two acts which are intended to protect the consumer:

First. The Federal Food, Drug, and Cosmetic Act:

Section 403 of this act states that food shall be deemed to be misbranded—first, if its labeling is false or misleading in any particular; second, if it is offered for sale under the name of another food; third, if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and fourth, if its container is so made, formed, or filled as to be misleading.

This section of the act also requires:

First. That labels show an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and further second, that all information required by the act to appear on the label must be prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

While the foregoing major provisions apply only to foods under this act, similar provisions are contained in the act relating to drugs and cosmetics.

It should be further noted that general regulations were issued by the Food and Drug Administration, section 1.9 (1) through (6) amplifying existing law which takes into consideration smallness or style of type, insufficient background, contrast, obscuring designs, etc.

Second. The Federal Trade Commission Act:

Section 5 of this act declares unlawful "unfair methods of competition in commerce, or unfair or deceptive acts or practices in commerce."

Section 12 of this act arms the Federal Trade Commission with additional procedural weapons to combat practices of false advertising of foods, drugs, devices, and cosmetics, thus giving these broad provisions coverage over all unfair or deceptive packaging and labeling and advertising practices relating to all products in commerce.

It has been my opinion that under these two acts, the Federal Government is vested fully with the power to bring prosecution against manufacturers or distributors who in any manner practice deception in the packaging of their goods and also vests the Federal Government with the power to go into a court of equity and procure injunctive relief against any manufacturers or distributors who indulge in such practices.

In addition to the two foregoing acts of the Federal Statutes, each State has

laws which subject individual manufacturers or distributors engaged in fraudulent practices in the sale of their goods to criminal prosecution and many States have laws giving the State government the right to seek injunctive relief to procure a remedy against fraudulent practices.

During the Commerce Committee's consideration of this bill, I supported the proposal which requires manufacturers or distributors of packaged goods to print on the outside of such packages in clear, understandable, conspicuous lettering the weight, measure, or numerical count of the pieces contained in the package and if the content is not in pieces but in weight, then the weight contents should not be identified in pounds and ounces but in ounces alone to simplify the housewives task in making comparisons.

My interest in protecting the buyer is just as deep as the interest of anyone else, but I do not subscribe to the policy of passing new laws on a given subject when existing laws are adequate to reach the desired objective.

Every time you pass a new law of this type, you create new bureaus with their plethora of public employees bringing about a scandalous, indefensible expansion of public workers duplicating the work that is already authorized under existing law.

SELECT COMMITTEE ON INTELLIGENCE OPERATIONS

Mr. MONDALE. Mr. President, I wish to speak in support of the resolution of the senior Senator from Minnesota to establish a Select Committee on Intelligence Operations, as that resolution was ordered reported by the Foreign Relations Committee.

Recent stories in the press indicate that there is a need for oversight over some aspects of the activities of the Central Intelligence Agency with particular reference to the effects of this activity on our general foreign policy. Participation of members of the Foreign Relations Committee will permit and be particularly appropriate to such scrutiny.

It appears, for example, that CIA agents used Michigan State University as a "cover" for intelligence activities, in a technical assistance project undertaken in South Vietnam from 1955 to 1959.

What effect does such activity have on our technical assistance projects elsewhere in the world? Surely it gives opponents of U.S. activity in such countries a handle with which to beat our supporters. If so, is the gain from this particular activity worth such a cost? These questions of foreign policy can best be answered by a broadlybased Select Committee.

It is reported in the series of New York Times articles of April 25-29 on the Central Intelligence Agency that the Agency has used money to influence the results of elections in foreign countries on occasions where it appeared that Communists were doing so. Certainly such activity cannot be carried on without becoming known. If the report is correct, how does this affect other foreign policies which we wish to pursue?

The junior Senator from New York recently spoke in this Chamber on the Alliance for Progress, and urged that the United States should take an active part in encouraging democratic forms and traditions in Latin America. I think nearly everyone agrees with him. How is such a desirable policy affected in its execution by the fact that we are in some places using bribery to influence the outcome of elections? Will they not do as we do, not as we say?

Answering such questions involves weighing the intelligence advantages in light of our long range foreign policy—an exercise most appropriately performed by a committee including members of the Armed Forces, Appropriations, and Foreign Relations Committees.

Another question which might well be taken up by the Select Committee is the degree to which our foreign intelligence activities may properly extend into this country. It has recently come to light in the press that Mr. George A. Carver wrote an article on the Vietcong in the April issue of Foreign Affairs without disclosure of the fact that he is a full-time employee of the CIA. The New York Times also reports in its series of articles that the CIA has subsidized U.S. book publishers under circumstances that were not clear. What intelligence goals are furthered by such activities? To what extent do they conflict with historic values and freedoms of our citizens?

The same question may well arise from the position of the Agency, asserted in a slander suit in Baltimore, that its agent when acting under orders, can with absolute immunity slander a man in this country by labeling him as a Soviet agent.

Because these questions extend beyond the intelligence field into areas of foreign policy, I support the motion which would place them within the scope of a select Committee on Intelligence Operations.

VIETNAM: MOMENT OF TRUTH

Mr. YOUNG of Ohio. Mr. President, with American battle casualties exceeding those of the South Vietnamese, and with the South Vietnamese fighting one another instead of the Vietcong, the time has come for us to consider what possible justification there is for us to continue fighting in Vietnam.

Incidentally, when I visited Vietnam and Thailand and other places in southeast Asia from last September 28 until October 19, my eyes were opened, and it did not take me very long to see for myself that we were involved in a miserable civil war in an area that is of no strategic or economic importance whatsoever to the defense of the United States.

Our President has two alternatives. One is to escalate the war by increasing our armed forces in southeast Asia, from the present number approximating 400,000 by 100,000 or 200,000 additional American GI's, bombing Hanoi and mining the harbor of Haiphong, and carrying the war more directly to North Vietnam.

The second is to suspend all bombing

of areas of North Vietnam and withdraw to our strongholds, pending the negotiation of a cease-fire and an armistice. This should be followed by elections under the supervision of the International Control Commission or under the auspices of the United Nations, and eventually by the orderly withdrawal of our Armed Forces.

Mr. President, in his usual concise and clear manner, Walter Lippmann, one of the free world's great journalists and outstanding thinkers, has stated the problem extremely well in his column, entitled "Moment of Truth," which was published in the Washington Post on May 24, 1966. I commend this column to my colleagues and am hopeful that administration leaders responsible for Vietnam policy will give serious and careful consideration to the excellent analysis set forth by Walter Lippmann. I ask unanimous consent that his column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

MOMENT OF TRUTH (By Walter Lippmann)

The hardest question facing us at the moment is whether or not the disintegration of the Saigon government and army can be stopped and reversed. The official position is, of course, that it can be.

But there is little evidence to support the official will to believe, and there is mounting evidence that General Ky or anyone like him is in an irreconcilable conflict with the war-weary people of Vietnam. There is no prospect now visible that the South Vietnamese people and the South Vietnamese army can be united and rallied for the prosecution of the war.

Unless this condition changes radically, we shall increasingly be fighting alone in a country which has an army that is breaking up and a government which has little authority.

We can already see on the horizon the possibility of an American army fighting on its own in a hostile environment. We must hope that the President and his strategic planners are prepared for such a development. For if the South Vietnamese government and army continue to disintegrate as is now the case, our troops may find themselves without serious organized military support, and forced to find their way in a seething unrest where friend and foe are indistinguishable.

If the Saigon forces disintegrate, it will no longer be possible to continue the war on the theory that the mission of our troops is to smash the hard core of the enemy while the Saigon troops occupy and pacify the countryside. What then? We shall be hearing from the Goldwater faction, whose first article of military faith is unlimited belief in airpower. They are arguing that the way to repair the breakdown in South Vietnam is to bomb Haiphong and Hanoi in the north. The Administration, as we are told by Secretary McNamara and Mr. Brown, the Secretary of the Air Force, knows the folly and the futility of that course of action.

Is there any real alternative to a holding strategy, sometimes called the enclave strategy, pending the negotiation of a truce and agreement for our phased withdrawal from the Asian mainland? If the Vietnamese war cannot be won by the Air Force, if it cannot be won by American troops fighting alone in South Vietnam, what other strategic option is there?

The only other option would be to make no new decisions, pursue the present course, and hope that things are not so bad as they seem, and that something better will turn

DIGEST of Congressional Proceedings

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Issued May 27, 1966
For actions of May 26, 1966
89th-2nd; No. 87

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HIGHLIGHTS: House passed labor standards bill. pp. 11046-94

HOUSE

1. LABOR STANDARDS. Passed, 303-93, with amendments H. R. 13712, to liberalize and expand the coverage of the Fair Labor Standards Act. A recommittal motion designed to strike out all agricultural sections from the bill and regarding food processing in certain industries in regard to overtime during peak seasons on highly perishable products was rejected, 168-231. Agreed to amendments to protect young people's part-time agricultural employment opportunities and allow certain wages to be set under the Sugar Act. pp. 11046-94

2. RESEARCH. Agreed to the conference report on S. 944, the oceanographic research bill. pp. 11042-6
3. DAIRY INDUSTRY. Rep. O'Konski said the number of dairy producers is becoming smaller and gave his reasons for this development. pp. 11099-102
4. FOOD FOR FREEDOM. Rep. Harvey, Ind., inserted an article, "U. S. Food and Freedom Policies Argued--Military View Given Priority." p. 11099
5. FARM LOANS. Received a report of GAO on a review of efforts to have borrowers refinance their Farmers Home Administration loans when private or cooperate credit becomes available; to Government Operations Committee. p. 11123
6. ADMINISTRATION. Received from GAO a compilation of recommendations for improving Government operations (H. Doc. 446). p. 11123

SENATE

7. MARKETING. The Commerce Committee reported with amendment, during adjournment on May 25, S. 985, the proposed Fair Packaging and Labeling Act of 1966 (S. Rept. 1186). p. 11001
Sen. Cotton submitted an amendment which would strike from this bill the subsections giving "officials downtown the power to ultimately determine the sizes and weights in which commodities shall be packaged." p. 11008
8. PERSONNEL; PAY. The Post Office and Civil Service Committee reported with an amendment H. R. 14122, the Federal pay bill (S. Rept. 1187). p. 11003
9. DISASTER RELIEF. H. R. 15151, to permit the planting of alternate crops on acreage which is unplanted because of natural disaster, was placed on the calendar with the understanding that it will not be considered until next week. pp. 11001-3
10. RECREATION. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 10451, authorizing transfer of certain Colo. lands from the Interior Department to the Agriculture Department for recreation development. p. D463
11. DAIRY IMPORTS. Sen. Hartke was added as a cosponsor to S. 3273, the proposed Dairy Import Act of 1966. p. 11008
12. SCHOOL MILK. Sen. Proxmire inserted excerpts from testimony setting out the "difficulties the administration's proposed 80-percent cutback in the special milk program for schoolchildren would impose on...Massachusetts." p. 11009
13. FARM PROGRAM. Sen. Metcalf commended and inserted an article, "McGovern Takes Farm Leadership Role." pp. 11016-7
Sen. Scott commended and inserted an article, "Agriculture and Economic Growth," describing the role of the private, as well as the government, sector in insuring agricultural development. pp. 11030-2
14. PATENTS. Sen. Long, La., urged defeat of S. 1809, to establish a uniform national policy concerning property rights in inventions made through the expenditure of public funds. pp. 11040-41

FAIR PACKAGING AND LABELING ACT

MAY 25, 1966.—Ordered to be printed

Filed under authority of the order of the Senate of May 25, 1966

Mr. MAGNUSON, from the Committee on Commerce, submitted the following

R E P O R T

together with

MINORITY AND INDIVIDUAL VIEWS

[To accompany S. 985]

The Committee on Commerce, to which was referred the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

PURPOSES AND BRIEF SUMMARY

The purposes of this bill, as amended, are to insure that the labels of packaged consumer commodities adequately inform consumers of the quantity and composition of their contents and to promote packaging practices which facilitate price comparisons by consumers.

In summary, the bill—as reported by the committee in the form of an amendment in the nature of a substitute (the text of which is printed in full at the close of this report)—

(1) Directs the Secretary of Health, Education, and Welfare (for food, drugs, devices, and cosmetics) and the Federal Trade Commission (for all other consumer commodities) to promulgate regulations to insure:

(a) that the package label bears the name of the commodity and adequate identification of its manufacturer;

(b) that the package label bears a separate statement of the net quantity of the contents expressed in ounces, or fractions thereof, except that the net quantity of commodities

marketed in even pounds, pints or quarts may be so stated;
(c) that the separate net quantity statement be printed in conspicuous and legible type, uniform as to type size and location on the label and undiluted by qualifying words or phrases.

(2) The administering agencies are also authorized to promulgate regulations on a commodity line basis when necessary—

(a) establishing and defining standards for designating the relative size of packages, such as “small,” “medium,” and “large”;

(b) establishing and defining “servings” standards;

(c) regulating printed label representations that commodities are being offered at retail sale at “cents off” the regular price, or in “economy” packages; and

(d) requiring the disclosure on labels of relevant ingredient information.

(3) Authorizes the administering agencies to establish reasonable weights or quantities for the retail distribution of any consumer commodity (a) where the agency determines that the consumer’s ability to make price per unit comparisons among the packages in which that commodity is being marketed is likely to be impaired and (b) after the industry has been given an opportunity (from 12 to 18 months) to participate in the development of a Voluntary Product Standard through the procedures for such standards administered by the Secretary of Commerce.

BACKGROUND AND NEED

This legislation represents a significant step beyond the traditional policing of intentionally deceptive or fraudulent acts. It is a reflection of the changing relationship between manufacturer and consumer which has marked the technological upheaval in food processing, packaging, and distribution of recent decades.

More than 8,000 promotionally designed packages now compete for the consumer’s dollar, where 20 years ago only 1,500 confronted him. In the interim the package on the supermarket shelf has acquired, by default, the informational functions formerly performed by the friendly—or at least familiar—retail clerk. But this informational function has come into increasing conflict with the package’s role as its own most enthusiastic advertisement and promotional device. And information has too often suffered at the expense of promotion.

If the consumer is to be capable of making informed choices in today’s supermarket, then it is necessary not only to protect him from deliberate frauds and deceits but to require affirmatively that the relevant information be presented on the package in a coherent and meaningful form and with reasonable uniformity. Moreover, if the consumer is to be able to perform his primary market function of rewarding the efficient producer, then competing commodities must be packaged in such a way as to facilitate clear and easily computed price comparisons. The committee has no desire to superimpose its judgment as to the quality of competing products upon the judgment of the marketplace but, before the consumer can make a meaningful judgment with respect to value, he must first have the opportunity to compare prices.

The Senate Commerce Committee held 10 days of hearings on S. 985, and had before it five volumes of testimony taken in 1961, 1962, 1963, and 1964 by the Antitrust and Monopoly Subcommittee, on packaging and labeling practices in the marketing of consumer commodities.

Out of all these hearings there has emerged a pattern of marketing practices which the committee believes have substantially impaired the fair and efficient functioning of consumer commodity marketing. In particular, the hearings identified certain undesirable conditions and practices to which this legislation is principally directed. They include—

- (1) Confusing, inconspicuous, incomplete or nonexistent quantity of contents statements on labels;

- (2) Lack of uniformity in the designation of units of weight or fluid volume. Thus, a package may be labeled "1 qt. 1 oz." or "33 oz."; "1 pint," "16 ounces" or "1 half-quart";

- (3) The use of qualifying adjectives to exaggerate the quantity of contents, such as "giant" or "jumbo" quart;

- (4) The use of size characterizations, such as "small," "medium," and "large," and "servings" designations, without meaningful standards of reference;

- (5) The imprinting on the package by the manufacturer of purported price information implying retail bargains such as "cents off" or "economy size" representations. In placing such representations on his package, the manufacturer is promising the consumer a price advantage which he cannot fulfill, for it is the retailer and not the manufacturer who determines the price which the consumer pays;

- (6) Insufficient or nonexistent ingredient information, such as the failure to disclose the percentages of costly and inexpensive ingredients or active and inert ingredients; and

- (7) The proliferation of awkward and fractional weights and quantities, in which many consumer commodities are being marketed. For example, potato chips have recently been marketed in 71 different quantities under 3½ pounds. And instant coffee is presently being sold in 2 oz., 2½ oz., 4 oz., 5 oz., 6 oz., 7 oz., 8 oz., 9 oz., 10 oz., etc., jars. The consumer is thus compelled to divide the retail price by the number of ounces in each package to arrive at the unit costs by which the packages can be compared.

Testimony before the committee established that present law is inadequate or imprecise to a degree that permits these practices and conditions to flourish unabated. Present law deals primarily with deceptive or fraudulent practices, which are generally subject to correction only through laborious case-by-case prosecution.

The committee was much impressed with the opportunities for cooperative voluntary standardization inherent in the voluntary standards procedures of the Department of Commerce. The Department's voluntary standardization program was established by former President Herbert Hoover in 1926 in his then capacity as Secretary of Commerce and the Department has since participated in the establishment, through industry cooperation, of some 500 standards. The voluntary standardization of can sizes through the Department's procedures is probably the outstanding instance of such successful cooperative effort involving consumer commodities.

The uniform marketing of liquor in pints, fifths, and quarts also supplied the committee with a concrete example of weight standardization which has apparently not inhibited innovation in the design of attractive and imaginative bottles of widely varying shapes, sizes, and dimensions.

The committee held seven executive sessions to consider S. 985. During the course of committee deliberations, the bill passed through five formal revisions represented by committee prints. Each provision of the proposed bill was subjected to the closest scrutiny in order that the committee might formulate procedures adequate to protect the consumer, with minimal interference in the marketing process. The committee was particularly concerned that legislation not unduly hamper innovation and progress in the marketing of consumer goods. Procedural protection, substantive guidelines, and necessary exceptions were all adopted to meet the fears and concerns expressed by the affected industries.

REGULATORY FRAMEWORK

The legislation seeks to provide a regulatory framework within which ground rules can be established, in the tradition of the latter day labeling laws, such as the Fur Products Labeling Act, the Flammable Fabrics Act, and the Textile Fiber Products Identification Act.

The principal regulatory features of the bill are those generally referred to as the "mandatory" provisions—designed to apply across-the-board to all packaged consumer commodities—and the "discretionary" provisions, authorizing regulations to be promulgated on a commodity-by-commodity basis only after the necessity for regulation has been established.

The regulatory responsibility is divided between the Secretary of Health, Education, and Welfare and the Federal Trade Commission, preserving the historical division of responsibility between the Food and Drug Administration of HEW and the Federal Trade Commission. HEW is thus given jurisdiction over the packaging and labeling of all consumer commodities which are foods, drugs, devices, or cosmetics within the scope of the Federal Food, Drug, and Cosmetic Act, while the FTC is granted jurisdiction over all other consumer commodities.

A food, drug, device or cosmetic which violates any regulation promulgated under the act is to be deemed "misbranded" within the meaning of the Federal Food, Drug, and Cosmetic Act and is made subject to the enforcement provisions of that act, other than the criminal penalties. Any such commodity would thus be subject to injunction or seizure. Other consumer commodities violations would constitute "unfair or deceptive acts or practices in commerce" in violation of the Federal Trade Commission Act. Such violations would be subject to the Commission's authority to issue cease and desist orders.

In encouraging the voluntary development of weights and quantities standards, the bill also utilizes the voluntary product standards procedures of the Department of Commerce and, in regulating imports, grants authority to the Secretary of the Treasury.

With respect to all regulations to be issued, the bill incorporates the procedural safeguards of the Federal Food, Drug, and Cosmetic Act, which provide assurance of adequate notice, ample opportunity for hearing, and recourse to judicial review.

It is, of course, intended that no regulation under the mandatory or discretionary sections of the bill should take effect until the manufacturers involved have had full opportunity to effect any necessary packaging or labeling changes, and to allow reasonable time for the disposal of existing stocks and inventories. The bill also provides that no regulation adopted under the act shall preclude the continued use of returnable or reusable glass containers for beverages which were in inventory or circulating "with the trade" as of the effective date of the act. This would insure that returnable bottles actually in circulation on the effective date of the act could continue in circulation throughout their life cycle.

MANDATORY PROVISIONS

The mandatory provisions are found in section 4. The first 3 (subsections (a)(1), (a)(2) and (a)(3)) direct the promulgating authorities to establish net quantity of contents labeling regulations effective to insure:

That the label identify the commodity and the name and place of business of the manufacturer, packer, or distributor ((a)(1)).

That the net quantity of contents (in terms of weight, measure, or numerical count) be separately and accurately stated in a uniform location upon the principal display panel of the label. The "principal display panel" is defined as that part of the label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions ((a)(2)).

That the net quantity of contents of any packaged consumer commodity which contains less than 4 pounds or 1 gallon shall be expressed in ounces, or fractions thereof, or in whole units of pounds, pints or quarts. This requirement would supersede any Federal or State regulation requiring the net quantity of contents to be stated in any different form (but would not preclude the manufacturer from expressing the net quantity in alternate form in a supplemental statement elsewhere on the label) ((a)(3)(A)).

That the net quantity of contents statement appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing or molding) with other matter on the package ((a)(3)(B)).

That the net quantity of contents statement contain letters or numerals in a type size, established by the promulgating authority in relationship to the area of the principal display panel of the package, which shall be uniform for all packages of substantially the same size ((a)(3)(C)).

That the separate net quantity of contents statement be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed ((a)(3)(D)).

Subsection 4(b) prohibits the qualification of the separate net quantity statement by any modifying words or phrases. However, a supplemental statement of the net quantity of contents set apart from the separate net quantity statement, required by the bill, may be modified by nondeceptive words or phrases, so long as such words or phrases do not tend to exaggerate the amount of the commodity contained in the package. For example, where a package contains a separate net quantity statement in conformity with

promulgated regulations, such as "6 oz. net weight," the package could also contain in a supplemental statement, apart from the required net quantity statement, the phrase "6 oz. of fast acting X detergent" but could not contain the statement "6 jumbo oz. of X detergent" at any place on the package.

Subsection 5(b) authorizes exceptions to the mandatory requirements upon a finding by the promulgating authority, with respect to any consumer commodity, that full compliance with the requirements is either impracticable or unnecessary for the adequate protection of consumers. A small commodity, for example, may of necessity be so packaged as to render impracticable principal display panel net quantity of contents designation.

DISCRETIONARY SECTIONS

Subsection 5(c) authorizes the promulgating authorities to issue commodity-by-commodity regulations, governing four categories of labeling practice, where necessary to prevent the deception of consumers or to facilitate price comparisons.

Subsection 5(c)(1) authorizes the establishment of standards for label characterizations of size, such as "small," "medium," and "large." For example, where the promulgating authority found that there was significant variation in the use of such characterizations among competing products, the authority could establish uniform standards for "small," "medium," and "large" packages in that commodity line.

Subsection 5(c)(2) authorizes the establishment of standards for "servings." Thus, where the promulgating authority determined that one manufacturer's "2-servings" package was the equivalent of another's "3-servings" or "4-servings" package, the authority could set standards for servings in that commodity line, assuring a meaningful standard of comparison.

Subsection 5(c)(3) authorizes the regulation of printed label representations that a consumer commodity is being offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers by reason of the size of the package or the quantity of its contents. This provision is primarily directed at "cents off" label representation placed on the package by the manufacturer and at such label designations as "economy" size. While the committee was of the opinion that these practices should be prohibited where abused, the agencies are granted a measure of flexibility in establishing regulations for the utilization of such promotional techniques in a nondeceptive manner. Nothing in this subsection would inhibit the retailer's right to set retail prices or to make sale offers.

Subsection 5(c)(4) authorizes the agencies to require that information with respect to the ingredients and composition of any consumer commodity be placed on packages containing that commodity. Here the committee is primarily concerned with the ability of consumers to make price comparisons among competing products with varying proportions of active or costly ingredients. Thus the agencies may determine that in a given commodity line, it is necessary for the package to list those ingredients (including proportions or percentages) which may be material to the consumer's price comparisons among competing products. Regulations promulgated under this section

must be consistent with the requirements of the Federal Food, Drug, and Cosmetic Act and may not require the disclosure of information concerning proprietary trade secrets.

Subsections 5 (d), (e), (f), and (g) establish procedures for the development of standards of weights or quantities for the retail distribution of consumer commodities, placing primary emphasis upon the voluntary product standards procedures of the Department of Commerce.

A weights or quantities standard proceeding is triggered by the determination of the promulgating authority (HEW or FTC), after hearing, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of the consumer to make price per unit comparisons.

Within 60 days of the publication of such determination in the Federal Register, any affected producer or distributor may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity, in accordance with the voluntary product standards procedures established by the Secretary of Commerce.

The current voluntary product standards procedures, reproduced in an appendix to this report, provide for the establishment of a standard review committee made up of—

qualified representatives of producers, distributors and consumers, or users, of the product for which the standard is sought and any other appropriate general interest groups.

The bill expressly requires that the voluntary product standards procedures provide "adequate manufacturer, distributor and consumer representation," as is presently required under these procedures. In selecting consumer representation, the Secretary may utilize the President's Committee on Consumer Interests and the Consumer Advisory Council, the Food and Drug Administration and the Federal Trade Commission, labor and consumer organizations, and also distinguished private citizens not affiliated with any affected industry.

The committee reviews proposed standards and, upon a vote of three-fourths of all its members, may recommend acceptance of the standard. The Department thereupon distributes the proposed standard to a list of acceptors compiled by the Department, representative of—

producers, distributors, users, consumer, appropriate testing laboratories, and interested State and Federal agencies, and to any others upon request.

The Department analyzes responses from the list of acceptors and—

if such an analysis indicates that the recommended standard is supported by a consensus, then it will be published as a product standard by the Department. (For the purpose of these procedures, consensus means general concurrence with no substantive objection deemed valid by the Department.)

The procedures also provide for continuing review and for revision or amendment of any standard if "the standard or any part of it is being used to mislead consumers or is found to be against the best interest of consumers."

Where industry is unable to develop a voluntary product standard within 12 months from the filing of a request with the Secretary of Commerce for the development of such standard (or within 18 months, at the discretion of the promulgating authority, where the Secretary of Commerce certifies to the promulgating authority that there are grounds for belief that a voluntary product standard will be published within a reasonable time), the promulgating authority may establish a standard of reasonable weights or quantities, and fractions or multiples thereof, in which the commodity shall be distributed for retail sale.

Where a voluntary product standard promulgated by the Secretary of Commerce is in effect but is not being complied with, the promulgating authority may initiate a proceeding for the establishment of a mandatory standard. However, such standard may not vary, in substance, from the voluntary standard.

Subsection 5(f)(2) precludes the establishment of any weight or measure in any amount less than 2 ounces and subsection 5(f)(3) prohibits the establishment of any weight or quantity standard which would preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related products of varying densities, such as baby foods, except to the extent it is determined that the continued use of such package for such purpose is likely to deceive consumers.

Subsection 5(f)(d) provides that no weight or quantity standard established under the act shall have the effect of precluding the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the act. A large proportion of reusable bottles are designed for use in vending machines and the committee included this provision to assure the soft drink industry that nothing in the act could require the redesign of all vending machines.

Subsection 5(g) also requires that the promulgating authorities give due regard to the probable effect of regulations imposing weight or quantity standards upon—

- (1) The cost of the packaging of the products affected;
- (2) The availability of any product in a reasonable range of package sizes to serve consumer convenience;
- (3) The materials used for the packaging of the affected products;
- (4) The weights and measures customarily used in the packaging of the affected products; and
- (5) Competition between containers made of different types of packaging material.

STATE-FEDERAL RELATIONS

Section 9 authorizes the continued cooperation among States and Federal agencies in packaging and labeling regulation and specifically requires the Secretary of Commerce to submit regulations issued under this provision to the appropriate State officers and agencies. This section further requires that the Secretary of Commerce furnish to State officers and agencies information and assistance to promote to the greatest extent practicable uniformity in State and Federal regulation.

The services of the Secretary of Commerce are invoked here in order to further the cooperative program which has been successively coordinated by the Weights and Measures Division of the National Bureau of Standards and the National Conference on Weights and Measures, which has resulted in the passage of uniform weights and measures laws in many States.

Section 12 provides that regulations promulgated under the act shall supersede State law only to the extent that the States impose net quantity of contents labeling requirements which differ from requirements imposed under the terms of the act. The bill is not intended to limit the authority of the States to establish such packaging and labeling standards as they deem necessary in response to State and local needs.

COSTS

HEW estimates that the bill will require \$1.5 million in additional funds for the first year's administration, while the Federal Trade Commission estimates that its responsibilities under the bill will entail an additional \$250,000 per year. The Department of Commerce indicated that it was unable to forecast how many voluntary product standards procedures would be initiated as a result of the stimulus provided by the bill but informed the committee that the average cost per voluntary product standard proceeding was approximately \$20,000.

AGENCY COMMENTS

The committee received the following comments on S. 985:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 27, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of February 23, 1965, for a report on S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling certain consumer commodities.

The Department recommends the enactment of this bill.

The provisions of S. 985 are basically comparable to the labeling and packaging regulations issued under the Poultry Products Inspection Act. These regulations establish specific and meaningful rules for interpreting and enforcing the prohibition in this act against the use of any false, misleading, or deceptive label or name on poultry products. Under the Meat Inspection Act extensive regulations regarding deceptive labeling are also in effect. Provision has been made in S. 985 for exemption of meat and poultry products and for other commodities or containers that are now regulated under Federal laws administered by this Department.

The requirements of S. 985 are not materially different than the existing regulations under the Food, Drug, and Cosmetics Act governing the labeling of foods, other than meat and poultry products.

We recommend that provision be made in the bill, or in the regulations issued thereunder, for the advance clearance of labels and packages. Advance approval of labels for meat and poultry products

is required by regulation and this procedure has, we believe, been mutually satisfactory to the industry and to the Department.

There are two provisions of the bill which would constitute a significant difference from the Federal meat and poultry inspection acts and the regulations issued thereunder. These provisions, not present in the meat and poultry acts, are the mandatory prohibition of "cents off" labeling by the manufacturer and the administrative authority to establish reasonable weights or measures by which a commodity shall be distributed for retail sale.

We have handled on a case-by-case basis the "cents off" labels submitted for approval by manufacturers of meat and poultry products. Relatively few such labels have been submitted for approval. They have been approved when the manufacturer submitted satisfactory evidence that there was no change in the product formula and quality, and when the labels showed the base price to which the "cents off" would apply. Only temporary approval (6 months' limitation) is given to a "cents off" label. We are currently reviewing the matter to determine if further safeguards or limitations within the scope of the meat and poultry inspection acts should be adopted.

Lack of authority under existing Federal laws to require standardization of weights or measures for retail packages of meat and poultry products has not been a troublesome or contentious matter.

The Bureau of the Budget advises that there is no objection to the presentation of the report from the administration's point of view.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 26, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill, S. 985, to be known as the Fair Packaging and Labeling Act.

The bill would, with certain exceptions, make it unlawful to package or label consumer commodities for distribution in commerce which fail to conform to regulations to be promulgated under the measure. The Secretary of Health, Education, and Welfare would be charged with the promulgation of regulations and enforcement of the legislation with respect to food, drugs, devices, and cosmetics, and the Federal Trade Commission would be similarly charged with respect to other consumer commodities.

Subsection (b) of section 2 of the bill provides that the prohibition contained in subsection (a) shall not apply to wholesalers or retailers except to the extent that they package or label covered commodities or prescribe or specify the manner in which such commodities are packaged or labeled. The committee may wish to consider the desirability of amending subsection (b) to make the provisions of the measure applicable to wholesalers or retailers who offer packaged or

labeled commodities for distribution knowing they are not labeled in conformity with regulations promulgated pursuant to the act.

Section 3(a)(5) would flatly prohibit "cents off" labels. In our view such a prohibition is inadvisable for price competition is certainly a desirable factor in the marketplace. It is therefore suggested that this provision of the bill be deleted and in its place section 3(c) be amended to add a paragraph "(7)" authorizing the promulgation of regulations to deal with the "cents off" question. In the exercise of such an authority, the Secretary of Health, Education, and Welfare or the Federal Trade Commission, as the case may be, could permit the use of such labels under circumstances which would assure against consumer deception and pursuant to appropriate safeguards.

We note that section 3(c)(1) authorizes the promulgation of regulations to establish reasonable weights or quantities in which commodities shall be distributed for retail sale. Since standardization could, in some instances, be an anticompetitive factor, the provision appropriately confers a discretionary authority which, in its exercise, may take into account the impact of any such regulations on competition.

The Department of Justice favors the enactment of this legislation which will implement the recommendations contained in the President's consumer message of February 5, 1964 (H. Doc. 220, 88th Cong.).

The Bureau of the Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

DEPARTMENT OF STATE,
Washington, April 28, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This report on S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, is submitted in response to your letter of February 23, 1965.

S. 985 would provide for the promulgation of packaging and labeling regulations by the Secretary of Health, Education, and Welfare for foods, drugs, and cosmetics, and by the Federal Trade Commission for other consumer commodities, excluding certain products, such as meats, alcoholic beverages, and seeds, for which labeling and packaging requirements are imposed under existing law. Any violation of the regulations issued by the Secretary of Health, Education, and Welfare would be subject to certain of the penalties provided in the Federal Food, Drug, and Cosmetic Act with respect to misbranding, and violations of regulations issued by the Federal Trade Commission would be subject to penalties prescribed by the Federal Trade Commission Act for unfair or deceptive acts or practices in commerce.

The provisions of S. 985 as presently drafted do not appear to relate significantly to the responsibilities of the Department of State. The Department wishes to refrain, therefore, from making any recommendation with respect to the bill at the present time.

The Bureau of the Budget advises that from the standpoint of the administration's program, there is no objection to the submission of this report.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations
(For the Secretary of State).

THE GENERAL COUNSEL OF THE TREASURY,
Washington, April 23, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 985, to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in commerce, and for other purposes.

The proposed legislation is designed to prevent unfair and deceptive packaging and labeling of certain consumer commodities. The Secretary of Health, Education, and Welfare would be directed to promulgate regulations with respect to foods, drugs, and cosmetics which would require packages to give accurately and clearly essential product information and fairly represent the contents. The Federal Trade Commission would be required to promulgate similar regulations with respect to commodities which are customarily produced or distributed for sale through retail sales agencies for consumption or use by individuals.

The proposed legislation is not of primary interest to this Department and the Department has no comment to make as to its general merits.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
Acting General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 16, 1965.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The following are the views of the Bureau of the Budget on S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

In his message to the Congress in February 1964, on "The American Consumer," the President recommended "legislation to insure that the

consumer has access to the information needed to make a rational choice among competing packaged products." This was reaffirmed in his 1965 Economic Report S. 985 would accomplish this objective by requiring, in section 3(a), the Secretary of Health, Education, and Welfare (in the case of food, drugs, and cosmetics) and the Federal Trade Commission (in the case of other consumer commodities covered by the bill) to promulgate several specific types of regulations governing packaging and labeling for all such commodities, with appropriate exceptions for particular commodities. It would also authorize, in section 3(c), six other types of regulations for specific consumer commodities whenever "necessary to establish or preserve fair competition * * * by enabling consumers to make rational comparison with respect to price and other facilities, or to prevent the deception of consumers."

With one exception, the general requirements for regulation in section 3(a), in our judgment, are fully consistent with the objective of protecting the consumer and the manufacturer, especially since exceptions for particular commodities are provided. It would appear preferable, however, for use of "cents off" labels to be subject to discretionary regulation under section 3(c), rather than outright prohibition as now provided under section 3(a)(5). In order to forestall possible losses, it would also appear desirable to provide businesses an opportunity for advance clearance of specific packages and labels, provided, however, that ample time is allowed for the review of applications for such clearance, that during this period the applicant refrains from using the proposed new package or label, and that as under the Poultry Products Inspection Act, the Government's advice is binding unless and until the applicant obtains a reversal after a formal hearing procedure.

Enactment of legislation along the lines of S. 985, modified as suggested above, would be in accord with the President's program.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 18, 1965.

B-156208.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated February 23, 1965, you requested our comments on S. 985, 89th Congress.

The stated purpose of this measure is to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

We have no special information as to the desirability of such legislation, and since such measure would not affect the functions of this Office, we have no comments to make concerning its enactment.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., April 27, 1965.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 23, 1965, for a report on S. 985, a bill to be known as the Fair Packaging and Labeling Act and popularly referred to as the truth-in-packaging bill.

The bill—the outgrowth of extensive investigations and studies conducted for several years by, and under the leadership of, its principal sponsor, Senator Hart—would authorize this Department with respect to foods (other than meat and poultry products), drugs, devices, and cosmetics, and the Federal Trade Commission with respect to most other nondurable consumer commodities, to promulgate regulations designed to insure that such consumer commodities will be so packaged and labeled as to inform the consumer, in plain, meaningful, nonmisleading, and conspicuously placed and printed language how much is in the package and what the commodity consists of (short of revealing trade secrets); to prevent such disclosure from being counteracted by misleading pictures on the label or by a misleadingly shaped, formed, or sized container; to enable the average consumer to make quick and simple unit-price calculations, and to make ready comparisons between different packages of the same or different brands; and to prevent any label statements (other than accurate markings by the retailer) that state or imply that the consumer is getting a reduced price, or a bargain by reason of package size, which in the nature of things only the retailer could assert with knowledge as to its accuracy.

These purposes would be sought to be achieved through mandatory regulations on five matters specified in the bill—subject, as to some of these matters, to any exceptions that the nature, form, or quantity of particular commodities may require and that do not deprive consumers of reasonable opportunity to make rational comparison between competing products—and discretionary regulations on six other matters specified in the bill, which would be promulgated only if and as determined to be needed as to any consumer commodity to prevent consumer deception or to enable consumers to make rational comparison between competing products as to price or other factors. An article that violates such a regulation of this Department would, generally, be deemed to be misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act, while the violation of a regulation of the Federal Trade Commission under the bill would be deemed to constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.

The pressing need for action in this field has been amply demonstrated and was emphasized by President Johnson in his message to the 88th Congress on the American consumer—in which he recommended “legislation to insure that the consumer has access to the information necessary to make a rational choice among competing packaged products”—and, again, in his Economic Report to the present Congress, in which he stated: “Informed consumer choice among increasingly varied and complex products requires frank,

honest information concerning quantity, quality, and prices. Truth-in-packaging will help to protect consumers against product misrepresentation." (To the same effect, see the accompanying annual report of the Council of Economic Advisers, p. 138.) We believe that legislation along the lines of S. 985, with certain modifications designed to strengthen and perfect the bill, would be well suited to meeting that need.

Of primary importance in the scheme of the bill insofar as our own responsibilities are concerned is the provision (sec. 5(b)) under which articles that are violative of regulations issued by us under the bill would be deemed to be misbranded within the meaning of the Food, Drug, and Cosmetic Act. The regulations that would be authorized by the bill would thus greatly strengthen the effectiveness and enforceability of certain requirements and prohibitions that are already contained in the Food, Drug, and Cosmetic Act in more general terms, and would further implement that act's philosophy of honesty and fair dealing in the interest of consumers by authorizing additional regulatory requirements or prohibitions so as to prevent confusion in the marketplace and assist consumers of such articles in making informed and intelligent choices. (As pointed out below, however, this provision (sec. 5(b) of the bill) is in need of improvement.)

While, as a consumer protection agency, we have stressed the bill's principal objective, it should be noted that the bill at the same time, recognizing that self-regulation by industry has inherent limits, would protect the more responsible manufacturers and distributors who themselves desire to maintain high packaging and labeling standards, standards which too often they cannot maintain in the face of debased marketing practices on the part of less scrupulous competitors. As said by President Kennedy in his consumer protection message (1962) after recounting some of these practices:

"Misleading, fraudulent, or unhelpful practices such as these are clearly incompatible with the efficient and equitable functioning of our free competitive economy. Under our system, consumers have a right to expect that packages will carry reliable and readily usable information about their contents. And those manufacturers whose products are sold in such packages have a right to expect that their competitors will be required to adhere to the same standards."

In order to meet the objectives of the bill more fully, we believe that certain amendments to it, summarized below, are desirable.

1. *Relationship of S. 985 to Food, Drug, and Cosmetic Act.*—(a) While providing that a commodity introduced or delivered for introduction in commerce in violation of a regulation issued by us under the bill shall be deemed misbranded within the meaning of the Food, Drug, and Cosmetic Act, section 5(b) of the bill adds that "the provisions of section 303 of that act"—i.e., the provision making it a misdemeanor to violate that act—"shall have no application to any violation of any such regulation." We recommend deletion of this exemption. It would conflict with a principle that has been imbedded in our Federal food and drug laws for almost 60 years, where the public interest demands that those who make or deal in these products assume the highest degree of responsibility for assuring themselves that the product complies with the law and that there is no consumer deception. And the exemption would set a dangerous precedent for other legislation in this field.

It could, moreover, create confusion in those subject-matter areas in which the Food, Drug, and Cosmetic Act already has provisions paralleling or overlapping those of the bill and in which the criminal sanctions of that act clearly apply. For example, where we now proceed criminally under the present provisions of that act (and regulations thereunder) for failure of a food package label to state accurately "the contents in terms of weight, measure, or numerical count," and to do so "with such conspicuousness * * * and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use" (sec. 403 (e), (f)), we should be able to strengthen the Government's hand in such a prosecution by also charging a violation of regulations under section 3(a) of S. 985 requiring the net quantity of contents (in terms of weight, measure, or count) to be stated on the front panel and establishing minimum standards with respect to the prominence of that statement (including standards as to type size and type face). It should be emphasized that we now refer cases for criminal prosecution only in flagrant cases, that the Food, Drug, and Cosmetic Act (sec 305) calls for giving a person against whom a criminal proceeding is contemplated an opportunity to present his views before the violation is reported by us to a U.S. attorney for that purpose, and that we are not required to report minor violations for prosecution or, for that matter, even civil proceedings where the public interest will be adequately served by a suitable notice or warning (sec 306).

(b) We also suggest clarification of section 5(b) of the bill so as to make clear that it is coextensive with the Food, Drug, and Cosmetic Act in including violations that occur after an article has been shipped in interstate commerce, e.g., by alteration of the label while the article is held for sale after such shipment.

2. "*Cents off*", etc., labels.—As indicated in the Budget Bureau's report on the bill the administration would prefer that the provision of section 3(a)(5)—relating to regulations to prohibit "cents off," "economy size," and similar labels when not affixed by the retailer—be shifted to section 3(c) of the bill so that, instead of being required to issue such regulations for all consumer commodities, this Department or the FTC, as the case may be, would issue them only with respect to a particular product or products upon a determination that this is necessary to enable consumers to make rational comparison between such product or products and competing products with respect to price and other factors, or to prevent the deception of consumers as to the product or products involved. The reason for this recommendation, we understand, is that to outlaw this label practice completely would prohibit such labels even where they are completely accurate and honest. If this provision is transferred to section 3(c), we would in order to administer it effectively need authority for access to the necessary data.

3. *Exception from requirements of regulations*.—Section 3(c)(2) of the bill—which would authorize us to issue regulations to prevent distribution of packages in deceptive sizes, packages, or dimensional proportions—contains an exception to the effect that, where reasonable weights and measures have been established for a commodity pursuant to section 3(c)(1), regulations under section 3(c) (2) "may not proscribe the use of package shapes which have been designed to exploit the unique advantages of any material for use in the production of packages of distinctive appearance". We recommend that this ex-

ception be deleted, or that it be clarified by the addition of the phrase "except to the extent that such use would defeat the purposes of this subsection" (and by changing "except that" on p. 6, line 4, to "but"). Otherwise the exception of such containers would prohibit the exercise of the authority of section 3(c)(2) where necessary to prevent deception of consumers or to enable them to make rational comparison between competing products.

4. *Inclusion of "labeling" other than labels.*—We suggest that in appropriate places, to be specified in the law, the regulations as to labels be made also applicable to written, printed, or graphic matter accompanying the commodity, which is included in the term "labeling" as defined in the Food, Drug, and Cosmetic Act.

5. *Procedure for promulgation of regulations.*—Section 4(b) of the bill, which sets forth the procedure for promulgation of regulations under the bill, not only requires the regulatory agencies to consult with other Government agencies and with persons to be affected by a proposed regulation and to give reasonable advance notice of its intention to promulgate the regulation in the Federal Register, and not only requires that all regulations under the bill be promulgated in conformity with the Administrative Procedure Act, but it further requires that the discretionary regulatory authority under section 3(c) of the bill be exercised only after "a public hearing has been conducted and opportunity for review has been accorded in conformity with the provisions of sections 7 and 8 of the Administrative Procedure Act." (Secs. 7 and 8 of the Administrative Procedure Act, which relate to so-called formal rulemaking, apply automatically under present law where a rule may be issued under the applicable statute only on the basis of a hearing on the record. If the bill were to require such a hearing, specific reference to secs. 7 and 8 of the Administrative Procedure Act would therefore be surplusage, especially in view of the requirement of the preceding sentence that regulations be issued in conformity with the Administrative Procedure Act.)

We believe, moreover, that the bill should not require a hearing, with the long delays incident to that procedure, unless a hearing is requested on the basis of objections to the proposed rule filed by a party who would be adversely affected. The Food, Drug, and Cosmetic Act originally contained, for formal rulemaking, a provision requiring a hearing in all cases. We soon found out that there were a number of instances where everyone was in substantial agreement as to the need, scope, and content of a regulation. The mandatory hearing often caused great delay in the publication of final orders. With the active support of industry the Hale amendment was enacted in 1956. This amendment was incorporated into section 701(e) of the Food, Drug, and Cosmetic Act and now compels the Secretary to hold a public hearing only if requested to do so by one adversely affected by the proposed final order. This is the procedure that we believe should be followed for any formal rulemaking proceeding under this bill. We further believe that the bill should provide for judicial review on the basis of the hearing record in a U.S. court of appeals. The provisions of section 701 (e) and (f) of the Food, Drug, and Cosmetic Act furnish a desirable pattern for the recommended procedure.

In conclusion, we again strongly endorse legislation along the lines of this bill and we urge that your committee give favorable consideration to the modifications suggested above.

We are advised by the Bureau of the Budget that there is no objection to the submission of this report from the standpoint of the administration's program and that enactment of this bill, with modifications suggested in its report, would be in accord with the program of the President.

Sincerely,

WILBUR J. COHEN, *Secretary*.

CONSUMER INTERESTS

(Excerpts from message of the President of the United States transmitting proposed programs and legislation to further protect the consumers' interests)

To the Congress of the United States:

The consumer's interest is the American interest.

In guarding it, in promoting it, we improve the lives of every man, woman, and child in our Nation.

Consumers are all the people—the worker, the farmer, the businessman, and their families.

Every domestic program of the Federal Government in a very real sense is directed toward the consumer. When we work to stem pollution, improve transportation, or rebuild our cities, we promote the welfare of the American consumer.

The consumer has a right to a dollar of stable purchasing power.

I pledge to defend that right with all the ability and determination at my command.

All Americans can take pride in the economic record of recent years.

We are in the 61st month of unparalleled prosperity—the longest in our peacetime history.

A year ago 5 percent of our workers were unemployed. Now only 3.7 percent are out of work.

Today, our programs to provide better training and wider educational opportunities are supplying thousands of trained workers for our expanding economy.

Our standard of living has never been higher. Real consumption per capita—the way the average standard of living is measured—has advanced nearly 10 percent in the past 2 years—as large a dollar gain as in the preceding 8 years combined. That record could not have been achieved if inflation had eroded the value of the dollar and undermined the foundation of our prosperity.

This administration intends to maintain that record.

A new and progressive program is needed if we are to protect the American consumer's rights in the marketplace—his right to be informed, to choose, to be protected from unsafe products and to be heard in the councils of Government.

I recommend that the Congress enact comprehensive measures to secure these rights.

The American consumer has tremendous impact on the variety and quality of the goods and services available on the market.

The consumer buys what he wants. He cannot and should not be told what to buy. But he must be told what is available for purchase.

If the consumer is to be a wise sovereign in our progressive market economy, he must be fully informed. Free consumer choice—indeed, our free enterprise system—must rest on a firm foundation of reliable information on the costs and contents of the products we buy.

Today I renew my request that the Congress enact legislation to strengthen this foundation in two critical areas—lending and packaging.

I proposed legislation in these areas 2 years ago. President Kennedy made a similar recommendation 4 years ago. We have learned much from careful study of these proposals by the Congress and the public. Everything we have learned reaffirms my conviction that:

We *can* have equitable and effective laws on lending and packaging.

We *can* protect both the consumer and the overwhelming majority of honest business men from the minority of producers who would compete unfairly and infringe the rights of the consumer and their fellow businessmen.

We *need* reform in the credit area and we should encourage States to enact legislation to correct abuses.

We *need* such legislation urgently. We *can* now act wisely without further delay.

FAIR PACKAGING AND LABELING

Americans can choose among an unprecedented assortment of products when they go shopping.

In the average supermarket today, the housewife finds 8,000 items—more than five times the 1,500 items she found just 20 years ago. She also does an increasing amount of shopping in the “self-service” store—a product of efficiency in distribution. But with more products to choose from and fewer salespeople to answer her questions, the housewife relies heavily on the package itself as her source of information in making a choice.

American industry has made enormous strides in providing attractive and informative packaging. American manufacturers maintain one of the highest standards of quality in the world. They know that packages which accurately and fully describe their wares are the best salesmen.

Nevertheless there are instances of deception in labeling and packaging. Practices have arisen that cause confusion and conceal information even when there is no deliberate intention to deceive. The housewife often needs a scale, a yardstick, and a slide rule to make a rational choice. She has enough to do without performing complicated mathematics in the stores.

It is not enough to hope that such practices will disappear by themselves. The Government must do its share to insure the shopper against deception, to remedy confusion and to eliminate questionable practices.

I urge the Congress to enact fair packaging and labeling legislation to:

1. Require that each package provide simple, direct, accurate, and visible information as to the nature and quantity of its contents, including ingredients where this is important.

2. Keep off the shelves packages with deceptively shaped boxes, misleading pictures, confusing or meaningless adjectives,

inappropriate size or quantity markings, and promotional gimmicks that promise nonexistent savings.

3. Provide for the establishment of reasonable and appropriate weight standards to facilitate comparative shopping.

This legislation will not make packaging less attractive or less efficient. It will not prevent economies of scale in packaging, nor will it impose costly restrictions.

An accurate and informative package and label need not add to the producer's cost. It will add to the welfare of the American consumer.

CHANGES IN EXISTING LAW

There are no changes in existing law. Section 11 of the bill provides that nothing contained therein shall be construed to repeal, invalidate or supersede—

- (a) The Federal Trade Commission Act or any statute defined therein as an antitrust act;
- (b) The Federal Food, Drug, and Cosmetic Act; or
- (c) The Hazardous Substances Labeling Act.

APPENDIX

[Reprinted from Federal Register, vol. 30, No. 238, Dec. 10, 1965]

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

PART 10—PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

After giving public notice of proposed changes in the procedures for the development of voluntary standards (FEDERAL REGISTER, September 8, 1965), and after considering public comments, I hereby prescribe and publish the procedures set forth below for the development of voluntary product standards cooperatively with producers, distributors, users, consumers, and government agencies.

The procedures set forth the responsibilities of the industry and the role of the Department of Commerce in the development of such standards; provide guides for establishing a balanced standard review committee; set forth the requirements for general acceptance before a standard is published; and provide other safeguards for protecting the public interest.

These procedures shall be effective on the date of their publication in the FEDERAL REGISTER. The processing of any standards currently under development under previous procedures will continue from the appropriate point in the new procedures.

Signed in Washington, D.C., on this 7th day of December, 1965.

J. HERBERT HOLLOMON,
Assistant Secretary for Science and Technology.

- Sec.
- 10.0 General.
 - 10.1 Initiating development of new standard.
 - 10.2 Development of proposed standard.
 - 10.3 Establishment of the Standard Review Committee.
 - 10.4 Development of a recommended standard.
 - 10.5 Procedure for acceptance of recommended standard.
 - 10.6 Standing Committee for published product standard.
 - 10.7 Publication of standard.
 - 10.8 Reference to a standard.
 - 10.9 Revision or amendment of a standard.
 - 10.10 Withdrawal of a published standard.
 - 10.11 Effect of procedures.

AUTHORITY: The provisions of this Part 10 issued under the Act of March 3, 1901, ch. 872, sec. 2, 31 Stat. 1449; as amended by the Act of July 22, 1950, ch. 486, sec. 1, 64 Stat. 371 (15 U.S.C. 272); Reorg. Plan No. 3 of 1946, Part VI.

§ 10.0 General.

(a) *Introduction.* (1) The participation by the Federal Government in the development of voluntary standards for products, processes, and materials is recognized as a service to the public. Activity in this area is defined in Part VI of the Reorganization Plan No. 3 of 1946 and Department Order No. 90, revised January 30, 1964. Such

standards may cover terms, classes, sizes (including body sizes for wearing apparel), dimensions, capacities, quality levels, performance criteria, testing equipment, and test procedures.

(2) The Department of Commerce recognizes the importance, the advantages, and the benefits of standardization activities. Economic growth is promoted through the reduction of production costs and of inventory and distribution costs and the simplification of installation and use.

(b) *Requirements for Department of Commerce participation.* The Department of Commerce (hereinafter referred to as "The Department") will participate in the development of a voluntary standard when the standard is deemed appropriate, in that it—

- (1) Is not contrary to the public interest,
- (2) Has national effect or implication,
- (3) Has apparent industry-wide interest or endorsement, and
- (4) Is not such that it can be processed according to needs or desires of the industry by a nationally recognized private standardizing body.

(c) *Role of the Department.* The Department, in responding to a specific request from industry, assists in the establishment of a voluntary standard through the following:

- (1) Acts as an unbiased coordinator in the development of the standard.
- (2) Provides editorial assistance in the preparation of the standard.
- (3) Supplies such assistance and review as is required to assure the technical soundness of the standard.
- (4) Sees that the standard is representative of the views of producers, distributors, users, and consumers.
- (5) Seeks satisfactory adjustment of valid points of disagreement.
- (6) Publishes the standard.
- (7) Establishes a hallmark which may be used on or for products that meet the requirements set forth in the standard.

(d) *Role of industry.* One or more segments of an industry contribute to the development of a voluntary standard as follows:

- (1) Initiate and participate in the development of a standard.
- (2) Provide technical counsel on a standard.
- (3) Promote the use of, and support for, the standard.

§ 10.1 Initiating development of new standard.

(a) Any group of manufacturers, distributors, consumers, users, or testing laboratories, or any State or Federal agency concerned with a particular product, may request the Department to participate in the development and publication of a voluntary standard for that product under the procedures set forth in this part. Any request shall be in writing, and shall be signed by a representative of the group or agency, and forwarded to the Department. The request shall contain the following information:

- (1) The purpose and scope of a suggested standard.
- (2) A succinct statement of the need for the suggested standard and why it is desirable that the standard be developed through the Department of Commerce procedures.
- (3) A statement of reasons why the suggested standard would be in the public interest.

(4) Available technical data essential to the suggested standard and its further development, such as physical, mechanical, chemical or performance requirements, and production figures for the common stock varieties.

(5) Any other information which may be necessary as a basis for discussion by others.

(6) The names and addresses of the members of the group making the request if it is not a nationally recognized group.

The initial request may be accompanied by a copy of a draft of the suggested standard.

(b) If a request meeting the foregoing criteria is received by the Department and the Department determines that it would not be contrary to the public interest to develop a standard for the product, the Department may initiate the development of the standard by requesting that a draft of the suggested standard be prepared by an appropriate technical committee, if one has not been submitted by the proponent group.

§ 10.2 Development of proposed standard.

(a) The proposed standard as submitted to the Department shall—

(1) Be based on adequate technical information,

(2) Include performance criteria and test procedures which are adequate and can be readily understood and applied to products to determine conformance or nonconformance with the standard by any competent testing laboratory,

(3) Be not contrary to the public interest,

(4) Be generally acceptable by the producers, distributors, consumers, and users of the product,

(5) Be technically sound, and,

(6) Be in the proper form.

A proposed standard that fulfills these requirements may be submitted to the Department for further development.

(b) A proposed standard that meets the criteria set forth in paragraph (a) of this section, will be subjected to an impartial technical review by an appropriate individual or agency (Government or non-government, but not associated with the proponent group).

(c) A proposed standard may be made available for public comment and may be circulated by the Department to appropriate producers, distributors, users, consumers, and other interested groups for consideration and comments.

(d) The proponent group, or technical committee when appropriate, will consider all comments and suggestions received by the Department as a result of any circulation, and will recommend adjustments in the proposal that are technically sound and that will secure the greatest acceptance of the standard by the industry.

§ 10.3 Establishment of the Standard Review Committee.

(a) The Department will establish a Standard Review Committee within a reasonable time after receiving a proposed standard as revised in light of comment. The Committee will be made up of qualified representatives of producers, distributors, and consumers or users of the product for which a standard is sought and any other appropriate general interest groups. The Committee may remain in existence for a period necessary for the final development of the standard, or for 2

years, whichever is less. Alternates to committee members may be appointed by the Department if deemed necessary by the Committee and the Department.

(b) The Department shall be responsible for the organization of the Committee and the procedures under which it functions.

§ 10.4 Development of a recommended standard.

(a) The Standard Review Committee, with the guidance and assistance of the Department and, if appropriate, the technical reviewer designated under § 10.2(b), shall review an adjusted proposed standard promptly, and, when the Committee finds that the proposal meets the requirements set forth in § 10.2(a), it may recommend the proposal for acceptance under § 10.5.

(b) The business of a Standard Review Committee, except for the final recommendation of a standard, shall be conducted by majority vote of at least a quorum. A quorum shall consist of at least two-thirds of the total membership of the Committee. No standard may be recommended to the Department by the Committee unless it has been approved by three-quarters of all the members of the Committee. A vote may be taken by letter, either by the Committee chairman or by the Department.

(c) In recommending a standard to the Department for acceptance, the Standard Review Committee shall furnish a written report explaining the principal issues before the Committee, if any, and outlining how any objections were resolved or, if any objection remains, providing a statement by the minority of the reasons for the objection together with the Committee's reasons for rejecting such objection in making its recommendations.

§ 10.5 Procedure for acceptance of recommended standard.

(a) Upon receipt from the Committee of a recommended standard and report, the Department shall give appropriate public notice and distribute the recommended standard for acceptance unless—

(1) Upon a showing by any member of the Committee who has voted to oppose the recommended standard on the basis of an unresolved objection, the Department determines that if such objection were not resolved, the recommended standard—

(a) Would be contrary to the public interest, if published;

(b) Would be technically inadequate; or

(c) Would be inconsistent with law or established public policy.

(2) The Department determines that all criteria and procedures set forth herein have not been met satisfactorily or that there is legal objection to the recommended standard.

(b) Distribution for acceptance will be made to a list compiled by the Department, which shall be representative of producers, distributors, users, consumers, appropriate testing laboratories, and interested State and Federal agencies, and to any others upon request.

(c) The Department will analyze the responses and if such analysis indicates that the recommended standard is supported by a consensus, then it will be published as a product standard by the Department. (For the purpose of these procedures, consensus means general concurrence with no substantive objection deemed valid by the Department.)

§ 10.6 Standing Committee for published product standard.

(a) Prior to the printing of a product standard, the Department will appoint a Standing Committee, which may include members from the Standard Review Committee, to receive and consider proposals to revise or amend the standard in light of changing circumstances and to make appropriate recommendations to the Department.

(1) The Committee may be called upon to assist the Department in interpreting the standard. The members of a Standing Committee should be knowledgeable about—

- (i) The product or products covered by the standard,
- (ii) The standard itself, and
- (iii) Industry and trade practices relating to the standard.

(2) The membership of a Standing Committee shall have an adequate balance among producers, distributors, users and consumers, and any other important interests such as State or Federal agencies, independent testing laboratories, educational institutions, or professional organizations.

(b) The appointments to the Standing Committee will be for a maximum term of 5 years. However, the Committee may be reconstituted by the Department, whenever necessary to meet changing situations.

(c) The procedures, organization, and functions of a Standing Committee may be fixed by the Department.

§ 10.7 Publication of standard.

(a) A standard published by the Department under these procedures is a voluntary standard and thus by itself has no mandatory or legally-binding effect. Any person may choose to use or not to use such a standard.

(b) A publication fee will be charged to the sponsoring group, as appropriate, to cover the initial publication expenses incurred by the Government Printing Office in printing the final standard as issued by the Department. This fee will entitle the sponsoring group to one thousand copies of the standard. Additional copies will be sold by the Public Printer in accordance with the Government printing laws and regulations.

§ 10.8 Reference to a standard.

Appropriate reference in contracts, codes, advertising, invoices, announcements, product labels, and the like, may be made to a standard published under these procedures. Such reference shall be in accordance with such policies as the Department may establish.

§ 10.9 Revision or amendment of a standard.

(a) A published standard shall require revision when any of its basic or substantive provisions are determined to be inadequate by its Standing Committee or by the Department for one or more of the following reasons or for other appropriate reasons:

(1) Any portion of the standard is obsolete, technically inadequate, or no longer acceptable to or used by the industry.

(2) The standard or any part of it is being used to mislead consumers or is found to be against the best interests of consumers.

(3) The standard is being used to control or limit production, to set prices, to create undue artificial economic advantages for one part of the industry in relation to another, or otherwise to constitute an

unreasonable restraint of trade or create illegal dominance in the industry.

(b) Each suggestion for revision shall be referred to the Standing Committee for appropriate consideration. The processing of a suggested revision is the same as for the development of a new standard under these procedures and the Standing Committee serves the same functions as the Standard Review Committee in the process.

(c) Each standard will be reviewed within 5 years after initial issuance or last revision. Minor technical amendments may be published, at the discretion of the Department, upon the general concurrence of the Standing Committee.

§ 10.10 Withdrawal of a published standard.

(a) Any standard published under these or any previous procedures may be withdrawn by the Department at any time upon reasonable public notice if the standard is obsolete, technically inadequate, no longer acceptable to and used by the industry, contrary to law, not in the public interest, or for other reasons, and revision is not feasible or would serve no useful purpose.

(b) Before withdrawing a published standard the Department will review with the Standing Committee for that standard, if such a committee exists, the relative advantages and disadvantages of revision or amendment, development of a new standard, or withdrawal.

(c) Adequate public notice of intent to withdraw an existing standard will be given and all previous acceptors of the standard will be notified of this intent. Withdrawal terminates the authority to refer to the published standard as a commodity or a product standard developed under Department of Commerce procedures, from the effective date of the withdrawal.

§ 10.11 Effect of procedures.

These procedures, effective upon issuance, supersede all commodity standards procedures previously issued by the Department of Commerce or any of its offices or bureaus, but current commodity standards published under any such superseded procedures will remain in effect.

TEXT OF BILL AS APPROVED BY COMMITTEE

89TH CONGRESS
2D SESSION

S. 985

[Report No. —]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1965

Mr. HART (for himself, Mr. BARTLETT, Mr. CLARK, Mr. DOUGLAS, Mr. KENNEDY of New York, Mr. LONG of Missouri, Mr. MCINTYRE, Mr. MCNAMARA, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mrs. NEUBERGER, and Mr. RIBICOFF) introduced the following bill; which was read twice and referred to the Committee on Commerce.

Reported by Mr. MAGNUSON, with an amendment. Strike out all after the enacting clause and insert the part printed in *italie*.

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That this Act may be cited as the "Fair Packaging and Labeling Act".

[PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

[SEC. 2. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined by this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaging in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to regulations promulgated pursuant to this Act.

[(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

[REGULATIONS TO BE PROMULGATED

[SEC. 3. (a) As soon as practicable after the effective date of this Act, regulations shall be promulgated to—

[(1) require the net quantity of contents (in terms of weight, measure, or count, or any combination thereof) of consumer

commodities to be stated upon the front panel of packages containing such commodities, and upon any labels affixed to such commodities;

[(2) establish minimum standards with respect to the prominence of statements of the net quantity of contents (including minimum standards as to the type size and face in which such statements shall be made) appearing upon packages containing any consumer commodity and upon labels affixed to any such commodity;

[(3) prohibit the addition to such statements of net quantity of contents of any qualifying words or phrases;

[(4) specify such exceptions to the foregoing requirements as the promulgating authority may determine to be required by the nature, form, or quantity of particular consumer commodities, or by the customary mode of display of any particular consumer commodity for retail sale, except that no exception may be made if that exception would deprive consumers of reasonable opportunity to make rational comparisons between or among competing products;

[(5) prohibit the placement upon any package containing such commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price, or that a retail sale price advantage is accorded to retail purchasers thereof by reason of the size of that package or the quantity of its contents, except that no regulation promulgated under this section shall prevent any person while engaged at any time in the sale of any consumer commodity at retail to ultimate purchasers thereof from placing upon any such commodity, or upon any package containing that commodity, any marking pertaining to the retail sale price of that commodity; and

[(6) prevent the placement, upon any package in which such commodity is distributed for retail sale, of any illustration or pictorial matter which is likely to deceive retail purchasers in any material respect as to the contents of that package.

[(b)(1) Regulations under this section shall be promulgated by—

[(A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary"), with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and

[(B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

[(2) Such regulations adopted by the Secretary and by the Commission shall be uniform in content and application to the greatest practicable extent, as determined by consultation between the Secretary and the Commission.

[(c) Whenever the Secretary (as to any food, drug, device, or cosmetic), or the Commission (as to any other consumer commodity) determines that additional regulations are necessary to establish or preserve fair competition between or among competing products by enabling consumers to make rational comparison with respect to price and other factors, or to prevent the deception of consumers as to

such product, the Secretary of the Commission, as the case may be, shall promulgate under this subsection with respect to that commodity regulations effective to—

【(1) establish reasonable weights or quantities, or fractions or multiples thereof, in which that commodity shall be distributed for retail sale, except that no such regulation may be inconsistent with standards prescribed by the Secretary of Commerce before the effective date of this Act with regard to the sizes of containers used for the retail sale of any commodity, and no weights and measures shall be established in amounts of less than two ounces;

【(2) prevent the distribution of that commodity for retail sale in packages of sizes, shapes, or dimensional proportions which are likely to deceive retail purchasers in any material respect as to the net quantity of the contents thereof (in terms of weight, measure, or count), except that where reasonable weights and measure have been established pursuant to the provisions of paragraph (1) of this subsection such regulations may not proscribe the use of package shapes which have been designed to exploit the unique advantages of any material for use in the production of packages of distinctive appearance;

【(3) establish and define standards of designations of size (other than statements of net quantity of contents) which may be used to characterize quantitatively the contents of packages containing that commodity;

【(4) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed;

【(5) establish and define standards for the quantitative designation of the contents of packages containing any consumer commodity of a kind the net quantity of contents of which cannot meaningfully be designated in terms of weight, measure, or count; and

【(6) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended) that sufficient information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed in a prominent position upon packages containing that commodity and upon labels affixed thereto.

【PROCEDURE FOR PROMULGATION OF REGULATIONS

【SEC. 4. (a) Before promulgating any proposed regulation under section 3 with respect to any consumer commodity, the Secretary or the Commission, as the case may be, shall (1) consult with other agencies of the Government having special competence with respect to the subject of that regulation concerning the scope, application, form, and effect thereof, (2) publish in the Federal Register reasonable advance notice of intention to promulgate such regulation, and (3) accord to persons who would be affected thereby reasonable opportunity for consultation with respect to such proposed regulation.

[(b) All regulations adopted under this Act shall be promulgated in conformity with the provisions of the Administrative Procedure Act. No regulation shall be promulgated for any purpose described in section 3(c) of this Act unless a public hearing has been conducted and opportunity for review has been accorded in conformity with the provisions of sections 7 and 8 of the Administrative Procedure Act.

[(c) Any regulation promulgated under this Act may be modified by the promulgating authority, upon the initiative of that authority or upon application made by any person affected by that regulation, whenever such authority determines that such modification is necessary to conform to the requirements of this Act or to any change occurring in the method of packaging, labeling, distributing, or marketing of any consumer commodity.

[(d) No regulation adopted under this Act shall take effect until a reasonable period of time (as determined by the Secretary or the Commission, as the case may be) has passed after the promulgation thereof to permit persons affected thereby to effectuate compliance with the provisions of such regulation.

[(e) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

[ENFORCEMENT OF REGULATIONS

[SEC. 5. (a) Upon written request made, by the officer or agency authorized or directed by this Act to establish packaging or labeling regulations as to any consumer commodity of any class or kind, to any producer or distributor of such consumer commodity, such producer or distributor shall transmit promptly to that officer or agency a true and correct sample of each package and label used by that producer or distributor for or in connection with the distribution in commerce of any particularly described consumer commodity of that class or kind. And person who fails to transmit any such sample to such authority within twenty days after receipt of such request shall be subject to a civil penalty of not more than \$1,000 for each day of the continuance of such failure, except that the amount of such penalty may be compromised by such authority before the final determination of action for the recovery thereof. Such forfeiture shall be recovered in a civil action brought in the name of the United States in the district court of the United States for any judicial district in which such person resides, does business, or is found. Upon demand made by the defendant before the trial of any such action upon its merits, the defendant shall be entitled to have any issue of fact with respect to such failure determined by a jury.

[(b) Any consumer commodity introduced or delivered for introduction into commerce in violation of any regulation promulgated by the Secretary of Health, Education, and Welfare under this Act while that regulation is in force and in effect shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act) 21 U.S.C. 333) shall have no application to any violation of any such regulation.

[(c) Any violation of any regulation promulgated under this Act by the Federal Trade Commission while that regulation is in force and in effect shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act. The remedies provided by sections 4, 4A, and 16 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (38 Stat. 730, as amended; 15 U.S.C. 15, 15a, and 26), commonly known as the Clayton Act, shall not be available to any person threatened with loss or damage, or injured in his business or property, by any violation of any such regulation under this Act.

[REPORTS TO THE CONGRESS

[SEC. 6. Each officer or agency required or authorized by this section to promulgate regulations for the packaging or labeling of any consumer commodity shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding calendar year.

[COOPERATION WITH STATE AUTHORITIES

[SEC. 7. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State Officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal standards for the packaging and labeling of consumer commodities.

[(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

[DEFINITIONS

[SEC. 8. As used in this section—

[(1) The term "commerce" has the meaning given thereto by section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

[(2) The term "consumer commodity", except as otherwise specifically provided by this paragraph, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include (A) any meat, meat product, poultry, or poultry product, (B) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide

Act, the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act; (C) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or (D) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

[(3) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that commodity to retail purchasers thereof, but does not include (A) shipping containers or wrappings used solely for the transportation of such commodity in bulk or in quantity to wholesale or retail distributors thereof, (B) shipping containers or outer wrappings used by retailers to ship or deliver such commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity, or (C) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

[(4) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity.

[(5) The term "person" includes any firm, corporation, or association.

【SAVING PROVISION

【SEC. 9. Nothing contained in this Act shall be construed to repeal, invalidate, supersede, or otherwise adversely affect—

[(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

[(b) the Federal Food, Drug, and Cosmetic Act;

[(c) the Hazardous Substance Act; or

[(d) any provision of State law which would be valid in the absence of such amendment unless there is a direct and positive conflict between such amendment in its application to interstate or foreign commerce and such provision of State law.

【EFFECTIVE DATE

【SEC. 10. This Act shall take effect on the first day of the sixth month beginning after the date of enactment of this Act.】

That this Act may be cited as the "Fair Packaging and Labeling Act".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate price comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act and which shall provide that:

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor; and

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label; and

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) if expressed in terms of weight or fluid volume, on any package of a consumer commodity containing less than four pounds or one gallon, shall be expressed in ounces or in whole units of pounds, pints, or quarts (avoirdupois or liquid, whichever may be appropriate);

(B) shall appear in conspicuous typography, and easily legible type in distinct contrast (by layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: Provided, That such supplemental statements of net quantity of contents shall not

include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate price comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterizing the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity, is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents; and

(4) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended) that information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed upon packages containing that commodity.

(d) Whenever the promulgating authority determines, after a hearing conducted in compliance with section 7 of the Administrative Procedure Act, that the weights or quantities in which any consumer commodity

is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall—

(1) publish such determination in the Federal Register; and

(2) promulgate, subject to the provisions of subsections (e), (f), and (g), regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity shall be distributed for retail sale.

(e) At any time within sixty days after the publication of any determination pursuant to subsection (d)(1) as to any consumer commodity, any producer or distributor affected may request the Secretary of Commerce to participate in the development of a voluntary product standard or such commodity under the procedures for the development of voluntary product standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, distributor, and consumer representation. Upon the filing of any such request, the Secretary of Commerce shall transmit notice thereof to the authority which has caused notice of such determination to be published.

(f) No regulation promulgated pursuant to subsection (d)(2) with respect to any consumer commodity may—

(1) vary from any voluntary product standard in effect with respect to that consumer commodity which was published—

(A) before the publication of any determination with respect to that consumer commodity pursuant to subsection (d)(1);

(B) within one year after the filing pursuant to this section of a request for the development of a voluntary product standard with respect to that consumer commodity; or

(C) within such period of time (not exceeding eighteen months after the filing of such request) as the promulgating authority may deem proper upon a certification by the Secretary of Commerce that such a voluntary product standard with respect to that consumer commodity is under active consideration and that there are presently grounds for belief that such a standard for that commodity will be published within a reasonable period of time;

(2) establish any weight or measure in any amount less than two ounces;

(3) preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related commodities of varying densities, except to the extent that it is determined that the continued use of such package for such purpose is likely to deceive consumers; or

(4) preclude the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the Act.

(g) In the promulgation of regulations under subsection (d)(2) of this section, due regard shall be given to the probable effect of such regulations upon—

(1) the cost of the packaging of the commodities affected;

(2) the availability of any commodity in a reasonable range of package sizes to serve consumer convenience;

(3) the materials used for the packaging of the affected commodities;

(4) the weights and measures customarily used in the packaging of the affected commodities; and

(5) competition between containers made of different types of packaging material.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer

commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(e) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purpose of this Act—

(a) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales of instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of sections 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1), 355, 356, 357);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to

manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i);

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity;

(d) The term "person" includes any firm, corporation, or association;

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or territory and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries; and

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which differ from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on the first day of the sixth month beginning after the date of its enactment: Provided, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

MINORITY VIEWS OF MESSRS. COTTON, MORTON, SCOTT, PROUTY, PEARSON, AND DOMINICK

"Truth in packaging" is an ingenious and appealing slogan—one with which all must and do agree. Unfortunately, it is, however, a phrase which is troublesome to translate, especially to translate from slogan to statute.

In the translation the proponents of S. 985 have transformed the ideal of "truth in packaging" into an unprecedented administrative power to fix the sizes and weights of consumer products. The power would be exercised when a Federal agency decided that the product appears on grocers' shelves in too many sizes. This power is present regardless of any deception. It comes into play against products and packages which in every respect are honest and truthful. This portion of the bill confers on Federal officials dangerous and arbitrary control over trade in the marketplace. Used, this authority will seriously hamper manufacturers; it will raise consumer costs; it will restrict her freedom of choice. And yet, it will not assist her in effective shopping as we later demonstrate.

* * *

We believe that consumer products—for that matter all products—should be honestly and adequately labeled. So believing, we can, and do, support various of the features of the bill as reported. Let it be clear that the committee bill is a marked improvement over the bill as introduced. Many mischievous and extreme provisions of the original measure were eliminated during the committee's consideration.

Packages should be labeled so the busy housewife can determine their contents without juggling the package six different ways, without having to convert from pints and pounds into ounces, and without the need for a magnifying glass. To remedy such shortcomings, we offered a number of proposals to strengthen section 4 of the bill which were approved by the committee and incorporated in the reported bill.¹

There being extensive law already on the books barring the deceptive use of such terms as "large size," "family size," or "giant size," we see no crippling consequences in providing slight additional authority over the use of such terms.

Neither do we quarrel with allowing a Federal agency to define the quantity of a product which might constitute a serving, thankless though the task may be. Similarly, with respect to "cents off" promotions, while existing Federal Trade Commission guides against deceptive pricing appear to provide adequate protection to the public,

¹ The following specific provisions of sec. 4 were included as the result of suggestions offered by members of the minority: (1) labels bear the name and place of business of the manufacturer, packer, or distributor; (2) the net content be separately stated and appear in a uniform location on the package; (3) the net content of packages of less than 4 pounds or 1 gallon be expressed in ounces, rather than in mixed units of pounds and ounces, or pints and ounces; (4) the net content statement be generally parallel to the bottom of the package; and (5) the statement of net content be unadorned by any qualifying words or phrases.

we are not disposed to object to making the authority apparent, properly safeguarded, to deal effectively with the problem. In truth, these provisions of section 5(c) would add little to the protections currently afforded to the consumer by Federal and State law. Nonetheless, they may be useful, especially as clarified by the upcoming debate.

* * *

The heart of our concern over this bill is excessive power—the packaging control provisions of section 5 (d), (e), (f), and (g).

Clearly visible through the sugar-coating are tough, arbitrary, and far-reaching Federal powers to prescribe by regulation the sizes and weights in which consumer products can be produced and packaged. These unique powers can be invoked against the law-abiding, conscientious producer whenever a government agency determines that a product is being distributed in such different sizes that they “are likely to impair the ability of consumers to make price-per-unit comparisons.”

Even if the baffling ambiguities in these subsections were eliminated, even if the administration of the law were a model of justice and restraint, even if its “voluntary” aspects were not in fact ultimately compulsory, the effects would still be so appallingly harmful to consumers that the public would rebel in disgust.

One example will illustrate the baleful potential. We have carefully chosen as reasonable and realistic an example as we could. Company A produces potato chips. It has a good product. It is reasonably priced. It is honestly and fairly marketed. Its big seller is a 12-ounce package, a size chosen after unhappy experiences with other sizes, and on the basis of extensive research in its marketing area. The package has found a good market. It has loyal customers. Many prefer it because they like the 12-ounce size. It provides enough so the housewife is not always running out, but not so much they get stale.

Now comes a Federal agency, in this case the Food and Drug Administration, intent on rescuing the American housewife from a sea of confusion. It “determines,” under section 5(d), that potato chips are being marketed by all producers in so many different sizes that they “are likely to impair the ability of consumers to make price per unit comparisons.” Thus, it invokes the procedures of section 5 (e), (f), and (g). The “voluntary” nature of some of these procedures—the product standard procedures of the Department of Commerce—is illusory for they can be readily converted into mandatory Federal regulations. The clearly possible result of the agency’s efforts could be a regulation requiring potato chips to be packaged in 4-, 8-, 16-, and 24-ounce sizes—and in no other sizes. The 12-ounce package would then be banned.

In this “voluntary” way, company A would have to discontinue its successful 12-ounce package and switch to an 8- or 16-ounce package. It would have to convert its packaging line and machinery to the new sizes—at an appreciable cost (one witness testified that a new packaging line could cost up to \$400,000). And the cost inevitably would be reflected, in some measure, in the price of the product.

Furthermore, the firm would now have to compete against the 8- and 16-ounce packages of other producers who have been building markets and customer loyalty at these weights for years. Thus, it must seek sales on terms chosen by its competitors, but with the added handicap of higher costs and higher prices imposed by Federal regulation. It is not hard to foresee that company A could be severely, if not fatally, damaged, through no fault of its owners, managers, or employees. This is the potential harm which the language of the bill can inflict on producers in many fields.

The consumer who preferred the 12-ounce package of potato chips—because it contained the right amount, or because the package fit conveniently on her kitchen shelf, or for whatever rational or irrational reason—is out in the cold. She must forgo her desires. She must accept the size her Government thinks is best.

And yet, even despite such problems, the bill will not assure any improvement in the consumer's ability to make price comparisons. This is so because the price is set, not by the producer, but by the retailer—and set wholly outside the scope of this bill. Nothing in the bill requires even the posting of a price.

Consider, for illustrative purposes, two Government-standardized 8-ounce packages of different brands of potato chips. The retailer can price the first of these brands at 2 for 17 cents, and the second at 3 for 25 cents. The consumer's ability to make a price comparison would still be impaired unless she has the arithmetic ability to calculate that the price difference is one-sixth cent per package. It is, of course, a fundamental tenet of the advocates of the measure that such computations exceed the housewife's competence.

These provisions of the bill are a fuzzy, foolish, and futile attempt to help the housewife, who does not need the Government to decide for her what size packages she can buy. This aspect of the bill will have myriad harmful effects. It will reduce competition, infringe on the consumer's freedom of choice, increase costs and prices, and confer on Federal officials virtually unrestrained power over critical aspects of trade.

These provisions of the bill reflect one of two views—both profoundly distasteful to us—that our citizens are gullible, incompetent, uncomprehending, and irresponsible, or else that the American businessman is deceitful, exploitative, or corrupt. It is an approach that regards our people, particularly the housewife-consumer, as childlike and helpless; so confused that she requires the benevolent but firm guidance of a wise government in Washington. This approach is demeaning, and in relation to business, morbid. We reject it wholly.

The American people, most of all the sensible, prudent, economical housewife of 1966, is not and never will be ready for "1984." As their representatives we are determined to see that this does not come about. We agree with the man who declared, "The consumer is no idiot, she's your wife." We also believe that deliberate malfeasance in the marketplace is very much the exception, not the rule. These provisions conveying extraordinary and excessive powers must be stripped from the bill.

We failed in committee by an 11-to-7 vote to delete these provisions (sec. 5 (d), (e), (f), and (g)). We cannot let our efforts rest. We shall offer this amendment on the floor so that the Senate will have the opportunity to resolve this issue, and correct the grave error of the committee in approving these provisions.

NORRIS COTTON.

THRUSTON B. MORTON.

HUGH SCOTT.

WINSTON L. PROUTY.

JAMES B. PEARSON.

PETER H. DOMINICK.

INDIVIDUAL VIEWS OF MESSRS. PROUTY AND DOMINICK

We feel there is much to commend the bill the committee now reports, and we support most of its features.

The bill was the subject of long and careful consideration by the committee. Numerous executive sessions were held during which the bill was substantially amended and in our view greatly improved. The many amendments adopted by the committee resulted in basic agreement by the members of the committee on many sections of the bill with one notable exception. We refer, of course, to subsections (d), (e), (f), and (g) of section 5 of the bill. We have serious reservations regarding these subsections; and as a consequence, we joined in the minority views in this report for the reason that they clearly express our serious concern over those portions of the bill. We voted to delete those provisions and failing that, we supported an amendment to modify them. We will again support these or similar amendments when they are offered on the floor.

These troublesome subsections, as explained in the dissenting views, could well open the door for stultifying restrictions which would unduly limit freedom of choice in the marketplace. Balanced against this interest is our concern for adequate protection of the consumer. This latter concern has taken on new meaning in recent months as this Nation is faced with dramatically rising prices. Indeed, recent reports have indicated this inflationary price increase to be the highest in 15 years. Thus it is even now more important that the housewife should be able to make meaningful price comparisons. The Nation's consumers and the business community deserve what assistance we can give them to cope with this era of inflation so far as this can be accomplished without disrupting the marketplace.

We voted with the majority to report the bill to the Senate in order that these important issues may be openly debated by all the Members of the Senate.

WINSTON L. PROUTY.
PETER H. DOMINICK.

INDIVIDUAL VIEWS OF MR. COTTON

Legislation requiring "truth in packaging" is not necessary. "Clarity in labeling" is what is actually needed.

New legislation is not required to guard against deception. There are laws on the statute books to accomplish this. The Federal Trade Commission and the Food and Drug Administration have ample authority to proceed against any practice either in advertising, packaging, or labeling that is deceptive or misleading. The large package only partly filled, misleading matter on the label are already provided against and hedged about with penalties.

The authors and proponents of this bill have indicated that their aim is to save the customer from confusion.

What is actually needed to avoid confusion is a clear statement of the quantity of merchandise in each package or bottle in large type at the same location on the principal label and using the same form of measurement. Thus, the busy housewife, hurrying through the supermarket, may see at a glance the relative quantities of packages of the same commodity, measured in ounces so that she can instantly compare and compute. If this is done, it makes little difference what their size, quantity, or design may be.

Probably this uniform declaration of quantity could have been required under the present law, but this has not been done, and at present the customer has to look at the package from all angles to find the statement of contents, which may be in fine print and in an obscure place. It is beneficial, therefore, for the Congress to make this requirement an ironclad provision. Therefore, I urged that this be written into the bill, and the committee did so. This, I believe, is the real gist of the bill and accomplishes its purposes.

The proponents, however, insist that power be given officials downtown to ultimately determine the size and weight in which commodities shall be packaged or bottled. This puts it in the power of a bureaucrat to standardize packaging. Such a step will limit, if not stifle, competition. It will make it more difficult for new and small producers to secure a place in the market by presenting their merchandise in new and distinctive sizes. It will compel manufacturers to spend millions of dollars in changing their machinery to conform to the edict of a Federal official. Every one of these results will add cost to the consumer—whom this bill is supposed to protect.

I regard this as a vicious bill if sections 5 (d), (e), (f), and (g) are permitted to remain in it. These sections make a Federal agency a czar to dictate all forms of packaging—to the detriment of the consumer, as well as the producer and manufacturer.

I offered an amendment in committee to strike out these sections, which failed by a vote of 11 to 7.

I shall offer the same amendment in the Senate. If it is adopted, I consider this bill, with its strengthened labeling provisions, a good bill and shall support it. If the amendment is defeated, I believe that the bill is a bad bill, the effect of which would be to enable bureaucracy to flex its muscles and to establish autocratic power of a Federal agency in the marketplace, and I shall oppose it.

NORRIS COTTON.

S. 985

[Report No. 1186]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 1965

Mr. HART (for himself, Mr. BARTLETT, Mr. CLARK, Mr. DOUGLAS, Mr. KENNEDY of New York, Mr. LONG of Missouri, Mr. MCINTYRE, Mr. McNAMARA, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mrs. NEUBERGER, and Mr. RIBICOFF) introduced the following bill; which was read twice and referred to the Committee on Commerce

MAY 25, 1966

Reported, under authority of the order of the Senate of May 25, 1966, by
Mr. MAGNUSON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Fair Packaging and
4 Labeling Act”.

5 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND
6 LABELING

7 SEC. 2. (a) It shall be unlawful for any person engaged
8 in the packaging or labeling of any consumer commodity

1 ~~(as defined by this Act)~~ for distribution in commerce, or
2 for any person ~~(other than a common carrier for hire, a~~
3 ~~contract carrier for hire, or a freight forwarder for hire)~~
4 engaged in the distribution in commerce of any packaged or
5 labeled consumer commodity, to distribute or to cause to be
6 distributed in commerce any such commodity if such com-
7 modity is contained in a package, or if there is affixed to that
8 commodity a label, which does not conform to regulations
9 promulgated pursuant to this Act.

10 ~~(b)~~ The prohibition contained in subsection ~~(a)~~ shall
11 not apply to persons engaged in business as wholesale or
12 retail distributors of consumer commodities except to the
13 extent that such persons ~~(1)~~ are engaged in the packaging
14 or labeling of such commodities, or ~~(2)~~ prescribe or specify
15 by any means the manner in which such commodities are
16 packaged or labeled.

17 REGULATIONS TO BE PROMULGATED

18 SEC. 3. ~~(a)~~ As soon as practicable after the effective
19 date of this Act, regulations shall be promulgated to—

20 ~~(1)~~ require the net quantity of contents ~~(in terms~~
21 ~~of weight, measure, or count, or any combination there-~~
22 ~~of)~~ of consumer commodities to be stated upon the front
23 panel of packages containing such commodities, and upon
24 any labels affixed to such commodities;

25 ~~(2)~~ establish minimum standards with respect to

1 the prominence of statements of the net quantity of con-
2 tents (including minimum standards as to the type size
3 and face in which such statements shall be made) ap-
4 pearing upon packages containing any consumer com-
5 modity and upon labels affixed to any such commodity;

6 ~~(3)~~ prohibit the addition to such statements of net
7 quantity of contents of any qualifying words or phrases;

8 ~~(4)~~ specify such exceptions to the foregoing require-
9 ments as the promulgating authority may determine to be
10 required by the nature, form, or quantity of particular
11 consumer commodities, or by the customary mode of
12 display of any particular consumer commodity for retail
13 sale, except that no exception may be made if that ex-
14 ception would deprive consumers of reasonable oppor-
15 tunity to make rational comparisons between or among
16 competing products;

17 ~~(5)~~ prohibit the placement upon any package con-
18 taining such commodity, or upon any label affixed to
19 such commodity, of any printed matter stating or repre-
20 senting by implication that such commodity is offered
21 for retail sale at a price lower than the ordinary and
22 customary retail sale price, or that a retail sale price
23 advantage is accorded to retail purchasers thereof by
24 reason of the size of that package or the quantity of its
25 contents, except that no regulation promulgated under

1 this section shall prevent any person while engaged at
2 any time in the sale of any consumer commodity at
3 retail to ultimate purchasers thereof from placing upon
4 any such commodity, or upon any package containing
5 that commodity, any marking pertaining to the retail
6 sale price of that commodity; and

7 ~~(6)~~ prevent the placement, upon any package in
8 which such commodity is distributed for retail sale, of
9 any illustration or pictorial matter which is likely to
10 deceive retail purchasers in any material respect as to
11 the contents of that package.

12 ~~(b)(1)~~ Regulations under this section shall be promul-
13 gated by—

14 ~~(A)~~ the Secretary of Health, Education, and Wel-
15 fare (referred to hereinafter as the “Secretary”); with
16 respect to any consumer commodity which is a food,
17 drug, device, or cosmetic, as each such term is defined
18 by section 204 of the Federal Food, Drug, and Cosmetic
19 Act (21 U.S.C. 321); and

20 ~~(B)~~ the Federal Trade Commission (referred to
21 hereinafter as the “Commission”) with respect to any
22 other consumer commodity.

23 ~~(2)~~ Such regulations adopted by the Secretary and by
24 the Commission shall be uniform in content and application

1 to the greatest practicable extent, as determined by consul-
2 tation between the Secretary and the Commission.

3 ~~(e)~~ Whenever the Secretary ~~(as to any food, drug,~~
4 ~~device, or cosmetic)~~, or the Commission ~~(as to any other~~
5 ~~consumer commodity)~~ determines that additional regulations
6 are necessary to establish or preserve fair competition be-
7 tween or among competing products by enabling consumers
8 to make rational comparison with respect to price and other
9 factors, or to prevent the deception of consumers as to such
10 products, the Secretary or the Commission, as the case may
11 be, shall promulgate under this subsection with respect to
12 that commodity regulations effective to—

13 ~~(1)~~ establish reasonable weights or quantities, or
14 fractions or multiples thereof, in which that commodity
15 shall be distributed for retail sale, except that no such
16 regulation may be inconsistent with standards prescribed
17 by the Secretary of Commerce before the effective date
18 of this Act with regard to the sizes of containers used
19 for the retail sale of any commodity, and no weights
20 and measures shall be established in amounts of less
21 than two ounces;

22 ~~(2)~~ prevent the distribution of that commodity for
23 retail sale in packages of sizes, shapes, or dimensional
24 proportions which are likely to deceive retail purchasers

1 in any material respect as to the net quantity of the
2 contents thereof (in terms of weight, measure, or
3 count); except that where reasonable weights and
4 measures have been established pursuant to the provi-
5 sions of paragraph (1) of this subsection such regula-
6 tions may not proscribe the use of package shapes which
7 have been designed to exploit the unique advantages of
8 any material for use in the production of packages of
9 distinctive appearance;

10 ~~(3)~~ establish and define standards of designations of
11 size (other than statements of net quantity of contents)-
12 which may be used to characterize quantitatively the
13 contents of packages containing that commodity;

14 ~~(4)~~ establish and define the net quantity of any
15 commodity (in terms of weight, measure, or count)-
16 which shall constitute a serving; if that commodity is
17 distributed to retail purchasers in a package or with a
18 label which bears a representation as to the number of
19 servings provided by the net quantity of contents con-
20 tained in the package or to which that label is affixed;

21 ~~(5)~~ establish and define standards for the quantita-
22 tive designation of the contents of packages containing
23 any consumer commodity of a kind the net quantity of

1 contents of which cannot meaningfully be designated in
2 terms of weight, measure, or count; and

3 ~~(6)~~ require ~~(consistent with requirements imposed~~
4 ~~by or pursuant to the Federal Food, Drug, and Cosmetic~~
5 ~~Act, as amended)~~ that sufficient information with respect
6 to the ingredients and composition of any consumer com-
7 modity ~~(other than information concerning proprietary~~
8 ~~trade secrets)~~ be placed in a prominent position upon
9 packages containing that commodity and upon labels
10 affixed thereto.

11 PROCEDURE FOR PROMULGATION OF REGULATIONS

12 SEC. 4. ~~(a)~~ Before promulgating any proposed regula-
13 tion under section 3 with respect to any consumer commodity,
14 the Secretary or the Commission, as the case may be, shall
15 ~~(1)~~ consult with other agencies of the Government having
16 special competence with respect to the subject of that regu-
17 lation concerning the scope, application, form, and effect
18 thereof, ~~(2)~~ publish in the Federal Register reasonable ad-
19 vance notice of intention to promulgate such regulation, and
20 ~~(3)~~ accord to persons who would be affected thereby rea-
21 sonable opportunity for consultation with respect to such
22 proposed regulation.

23 ~~(b)~~ All regulations adopted under this Act shall be

1 promulgated in conformity with the provisions of the Ad-
2 ministrative Procedure Act. No regulation shall be promul-
3 gated for any purpose described in section 3(c) of this Act
4 unless a public hearing has been conducted and opportunity
5 for review has been accorded in conformity with the provi-
6 sions of sections 7 and 8 of the Administrative Procedure
7 Act.

8 (c) Any regulation promulgated under this Act may be
9 modified by the promulgating authority, upon the initiative
10 of that authority or upon application made by any person
11 affected by that regulation, whenever such authority deter-
12 mines that such modification is necessary to conform to the
13 requirements of this Act or to any change occurring in the
14 method of packaging, labeling, distributing, or marketing of
15 any consumer commodity.

16 (d) No regulation adopted under this Act shall take
17 effect until a reasonable period of time (as determined by
18 the Secretary or the Commission, as the case may be) has
19 passed after the promulgation thereof to permit persons af-
20 fected thereby to effectuate compliance with the provisions
21 of such regulation.

22 (e) In carrying into effect the provisions of this Act,
23 the Secretary and the Commission are authorized to coop-
24 erate with any department or agency of the United States,
25 with any State, Commonwealth, or possession of the United

1 States, and with any department, agency, or political subdi-
2 vision of any such State, Commonwealth, or possession.

3 ENFORCEMENT OF REGULATIONS

4 SEC. 5. (a) Upon written request made, by the officer
5 or agency authorized or directed by this Act to establish
6 packaging or labeling regulations as to any consumer com-
7 modity of any class or kind, to any producer or distributor
8 of such consumer commodity, such producer or distributor
9 shall transmit promptly to that officer or agency a true
10 and correct sample of each package and label used by that
11 producer or distributor for or in connection with the dis-
12 tribution in commerce of any particularly described consumer
13 commodity of that class or kind. Any person who fails to
14 transmit any such sample to such authority within twenty
15 days after receipt of such request shall be subject to a civil
16 penalty of not more than \$1,000 for each day of the con-
17 tinuance of such failure, except that the amount of such
18 penalty may be compromised by such authority before the
19 final determination of action for the recovery thereof. Such
20 forfeiture shall be recovered in a civil action brought in the
21 name of the United States in the district court of the United
22 States for any judicial district in which such person resides,
23 does business, or is found. Upon demand made by the de-
24 fendant before the trial of any such action upon its merits,

1 the defendant shall be entitled to have any issue of fact
2 with respect to such failure determined by a jury.

3 (b) Any consumer commodity introduced or delivered
4 for introduction into commerce in violation of any regulation
5 promulgated by the Secretary of Health, Education, and
6 Welfare under this Act while that regulation is in force and
7 in effect shall be deemed to be misbranded within the
8 meaning of chapter III of the Federal Food, Drug, and
9 Cosmetic Act, but the provisions of section 303 of that
10 Act (~~21 U.S.C. 333~~) shall have no application to any
11 violation of any such regulation.

12 (c) Any violation of any regulation promulgated under
13 this Act by the Federal Trade Commission while that regula-
14 tion is in force and in effect shall constitute an unfair or
15 deceptive act or practice in commerce in violation of section
16 5(a) of the Federal Trade Commission Act. The remedies
17 provided by sections 4, 4A, and 16 of the Act entitled "An
18 Act to supplement existing laws against unlawful restraints
19 and monopolies, and for other purposes", approved October
20 15, 1914 (~~38 Stat. 730~~, as amended; ~~15 U.S.C. 15, 15a, and~~
21 ~~26~~), commonly known as the Clayton Act, shall not be
22 available to any person threatened with loss or damage, or
23 injured in his business or property, by any violation of any
24 such regulation under this Act.

REPORTS TO THE CONGRESS

SEC. 6. Each officer or agency required or authorized by this section to promulgate regulations for the packaging or labeling of any consumer commodity shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding calendar year.

COOPERATION WITH STATE AUTHORITIES

SEC. 7. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal standards for the packaging and labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 8. As used in this section—

(1) The term “commerce” has the meaning given thereto by section 4 of the Federal Trade Commission Act (15 U.S.C. 44).

(2) The term “consumer commodity”, except as otherwise specifically provided by this paragraph, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include (A) any meat, meat product, poultry, or poultry product; (B) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus Serum Toxin

1 Act; ~~(C)~~ any beverage subject to or complying with
2 packaging or labeling requirements imposed under the
3 Federal Alcohol Administration Act ~~(27 U.S.C. 201~~
4 ~~et seq.)~~; or ~~(D)~~ any commodity subject to the pro-
5 visions of the Federal Seed Act ~~(7 U.S.C. 1551-1610)~~.

6 ~~(3)~~ The term "package" means any container or
7 wrapping in which any consumer commodity is enclosed
8 for use in the delivery or display of that commodity to
9 retail purchasers thereof, but does not include ~~(A)~~
10 shipping containers or wrappings used solely for the
11 transportation of such commodity in bulk or in quantity
12 to wholesale or retail distributors thereof, ~~(B)~~ shipping
13 containers or outer wrappings used by retailers to ship
14 or deliver such commodity to retail customers if such
15 containers and wrappings bear no printed matter per-
16 taining to any particular commodity; or ~~(C)~~ containers
17 subject to the provisions of the Act of August 3, 1912
18 ~~(37 Stat. 250, as amended; 15 U.S.C. 231-233)~~, the
19 Act of March 4, 1915 ~~(38 Stat. 1186, as amended;~~
20 ~~15 U.S.C. 234-236)~~, the Act of August 31, 1916 ~~(39~~
21 ~~Stat. 673, as amended; 15 U.S.C. 251-256)~~, or the
22 Act of May 21, 1928 ~~(45 Stat. 685, as amended; 15~~
23 ~~U.S.C. 257-257i)~~.

24 ~~(4)~~ The term "label" means any written, printed,
25 or graphic matter affixed to any consumer commodity.

1 ~~(5)~~ The term "person" includes any firm, corpora-
2 tion, or association.

3 **SAVING PROVISION**

4 SEC. 9. Nothing contained in this Act shall be construed
5 to repeal, invalidate, supersede, or otherwise adversely
6 affect—

7 ~~(a)~~ the Federal Trade Commission Act or any
8 statute defined therein as an antitrust Act;

9 ~~(b)~~ the Federal Food, Drug, and Cosmetic Act;

10 ~~(c)~~ the Hazardous Substance Act; or

11 ~~(d)~~ any provision of State law which would be
12 valid in the absence of such amendment unless there
13 is a direct and positive conflict between such amendment
14 in its application to interstate or foreign commerce and
15 such provision of State law.

16 **EFFECTIVE DATE**

17 SEC. 10. This Act shall take effect on the first day of
18 the sixth month beginning after the date of enactment of
19 this Act.

20 *That this Act may be cited as the "Fair Packaging and*
21 *Labeling Act".*

22 **DECLARATION OF POLICY**

23 SEC. 2. *Informed consumers are essential to the fair and*
24 *efficient functioning of a free market economy. Packages*
25 *and their labels should enable consumers to obtain accurate*

1 information as to the quantity of the contents and should
2 facilitate price comparisons. Therefore, it is hereby declared
3 to be the policy of the Congress to assist consumers and
4 manufacturers in reaching these goals in the marketing of
5 consumer goods.

6 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING

7 AND LABELING

8 SEC. 3. (a) It shall be unlawful for any person engaged
9 in the packaging or labeling of any consumer commodity (as
10 defined in this Act) for distribution in commerce, or for any
11 person (other than a common carrier for hire, a contract
12 carrier for hire, or a freight forwarder for hire) engaged in
13 the distribution in commerce of any packaged or labeled con-
14 sumer commodity, to distribute or to cause to be distributed
15 in commerce any such commodity if such commodity is con-
16 tained in a package, or if there is affixed to that commodity
17 a label, which does not conform to the provisions of this Act
18 and of regulations promulgated under the authority of this
19 Act.

20 (b) The prohibition contained in subsection (a) shall
21 not apply to persons engaged in business as wholesale or re-
22 tail distributors of consumer commodities except to the extent
23 that such persons (1) are engaged in the packaging or label-
24 ing of such commodities, or (2) prescribe or specify by any

1 means the manner in which such commodities are packaged
2 or labeled.

3 REQUIREMENTS AND PROHIBITIONS

4 SEC. 4. (a) No person subject to the prohibition con-
5 tained in section 3 shall distribute or cause to be distributed
6 in commerce any packaged consumer commodity unless in
7 conformity with regulations which shall be established by the
8 promulgating authority pursuant to section 6 of this Act
9 and which shall provide that:

10 (1) The commodity shall bear a label specifying the
11 identity of the commodity and the name and place of busi-
12 ness of the manufacturer, packer, or distributor; and

13 (2) The net quantity of contents (in terms of weight,
14 measure, or numerical count) shall be separately and accu-
15 rately stated in a uniform location upon the principal display
16 panel of that label; and

17 (3) The separate label statement of net quantity of
18 contents appearing upon or affixed to any package—

19 (A) if expressed in terms of weight or fluid volume,
20 on any package of a consumer commodity containing
21 less than four pounds or one gallon, shall be expressed
22 in ounces or in whole units of pounds, pints, or quarts
23 (avoirdupois or liquid, whichever may be appropriate);

24 (B) shall appear in conspicuous and easily legible
25 type in distinct contrast (by typography, layout, color,

1 *embossing, or molding) with other matter on the*
2 *package;*

3 *(C) shall contain letters or numerals in a type*
4 *size which shall be (i) established in relationship to the*
5 *area of the principal display panel of the package, and*
6 *(ii) uniform for all packages of substantially the same*
7 *size; and*

8 *(D) shall be so placed that the lines of printed*
9 *matter included in that statement are generally parallel*
10 *to the base on which the package rests as it is designed*
11 *to be displayed.*

12 *(b) No person subject to the prohibition contained in*
13 *section 3 shall distribute or cause to be distributed in com-*
14 *merce any packaged consumer commodity if any qualify-*
15 *ing words or phrases appear in conjunction with the separate*
16 *statement of the net quantity of contents required by sub-*
17 *section (a), but nothing in this subsection or in paragraph*
18 *(2) of subsection (a) shall prohibit supplemental state-*
19 *ments, at other places on the package, describing in non-*
20 *deceptive terms the net quantity of contents: Provided, That*
21 *such supplemental statements of net quantity of contents*
22 *shall not include any term qualifying a unit of weight, meas-*
23 *ure, or count that tends to exaggerate the amount of the*
24 *commodity contained in the package.*

1 ADDITIONAL REGULATIONS

2 *SEC. 5. (a) The authority to promulgate regulations*
3 *under this Act is vested in (A) the Secretary of Health,*
4 *Education, and Welfare (referred to hereinafter as the "Sec-*
5 *retary") with respect to any consumer commodity which is*
6 *a food, drug, device, or cosmetic, as each such term is defined*
7 *by section 201 of the Federal Food, Drug, and Cosmetic Act*
8 *(21 U.S.C. 321); and (B) the Federal Trade Commission*
9 *(referred to hereinafter as the "Commission") with respect*
10 *to any other consumer commodity.*

11 *(b) If the promulgating authority specified in this sec-*
12 *tion finds that, because of the nature, form, or quantity of a*
13 *particular consumer commodity, or for other good and suf-*
14 *ficient reasons, full compliance with all the requirements*
15 *otherwise applicable under section 4 of this Act is imprac-*
16 *ticable or is not necessary for the adequate protection of*
17 *consumers, the Secretary or the Commision (whichever the*
18 *case may be) shall promulgate regulations exempting such*
19 *commodity from those requirements to the extent and under*
20 *such conditions as the promulgating authority determines to*
21 *be consistent with section 2 of this Act.*

22 *(c) Whenever the promulgating authority determines*
23 *that regulations containing prohibitions or requirements other*
24 *than those prescribed by section 4 are necessary to prevent*
25 *the deception of consumers or to facilitate price comparisons*

1 as to any consumer commodity, such authority shall promul-
2 gate with respect to that commodity regulations effective to—

3 (1) establish and define standards for characteriz-
4 ing the size of a package enclosing any consumer com-
5 modity, which may be used to supplement the label
6 statement of net quantity of contents of packages contain-
7 ing such commodity, but this paragraph shall not be con-
8 strued as authorizing any limitation on the size, shape,
9 weight, dimensions, or number of packages which may
10 be used to enclose any commodity;

11 (2) establish and define the net quantity of any
12 commodity (in terms of weight, measure, or count) which
13 shall constitute a serving, if that commodity is distributed
14 to retail purchasers in a package or with a label which
15 bears a representation as to the number of servings pro-
16 vided by the net quantity of contents contained in that
17 package or to which that label is affixed;

18 (3) regulate the placement upon any package con-
19 taining any commodity, or upon any label affixed to such
20 commodity, of any printed matter stating or representing
21 by implication that such commodity is offered for retail
22 sale at a price lower than the ordinary and customary
23 retail sale price or that a retail sale price advantage is
24 accorded to purchasers thereof by reason of the size of
25 that package or the quantity of its contents; and

1 (4) require (consistent with requirements imposed
2 by or pursuant to the Federal Food, Drug, and Cosmetic
3 Act, as amended) that information with respect to the
4 ingredients and composition of any consumer commodity
5 (other than information concerning proprietary trade
6 secrets) be placed upon packages containing that com-
7 modity.

8 (d) Whenever the promulgating authority determines,
9 after a hearing conducted in compliance with section 7 of
10 the Administrative Procedure Act, that the weights or quan-
11 tities in which any consumer commodity is being distributed
12 for retail sale are likely to impair the ability of consumers
13 to make price per unit comparisons such authority shall—

14 (1) publish such determination in the Federal
15 Register; and

16 (2) promulgate, subject to the provisions of sub-
17 sections (e), (f), and (g), regulations effective to
18 establish reasonable weights or quantities, and fractions
19 or multiples thereof, in which any such consumer com-
20 modity shall be distributed for retail sale.

21 (e) At any time within sixty days after the publica-
22 tion of any determination pursuant to subsection (d)(1)
23 as to any consumer commodity, any producer or distributor
24 affected may request the Secretary of Commerce to partici-
25 pate in the development of a voluntary product standard

1 for such commodity under the procedures for the develop-
2 ment of voluntary product standards established by the Sec-
3 retary pursuant to section 2 of the Act of March 3, 1901
4 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such pro-
5 cedures shall provide adequate manufacturer, distributor, and
6 consumer representation. Upon the filing of any such re-
7 quest, the Secretary of Commerce shall transmit notice thereof
8 to the authority which has caused notice of such determination
9 to be published.

10 (f) No regulation promulgated pursuant to subsection
11 (d) (2) with respect to any consumer commodity may—

12 (1) vary from any voluntary product standard in
13 effect with respect to that consumer commodity which
14 was published—

15 (A) before the publication of any determination
16 with respect to that consumer commodity pursuant to
17 subsection (d) (1);

18 (B) within one year after the filing pursuant to
19 this section of a request for the development of a volun-
20 tary product standard with respect to that consumer
21 commodity; or

22 (C) within such period of time (not exceeding
23 eighteen months after the filing of such request) as the
24 promulgating authority may deem proper upon a certifi-
25 cation by the Secretary of Commerce that such a volun-

1 *tary product standard with respect to that consumer*
2 *commodity is under active consideration and that there*
3 *are presently grounds for belief that such a standard for*
4 *that commodity will be published within a reasonable*
5 *period of time;*

6 *(2) establish any weight or measure in any amount*
7 *less than two ounces;*

8 *(3) preclude the use of any package of particular*
9 *dimensions or capacity customarily used for the distribu-*
10 *tion of related commodities of varying densities, except to*
11 *the extent that it is determined that the continued use*
12 *of such package for such purpose is likely to deceive*
13 *consumers; or*

14 *(4) preclude the continued use of particular di-*
15 *mensions or capacities of returnable or reusable glass*
16 *containers for beverages in use as of the effective date of*
17 *the Act.*

18 *(g) In the promulgation of regulations under subsec-*
19 *tion (d)(2) of this section, due regard shall be given to*
20 *the probable effect of such regulations upon—*

21 *(1) the cost of the packaging of the commodities*
22 *affected;*

23 *(2) the availability of any commodity in a reason-*
24 *able range of package sizes to serve consumer con-*
25 *venience;*

1 (3) the materials used for the packaging of the
2 affected commodities;

3 (4) the weights and measures customarily used in
4 the packaging of the affected commodities;

5 (5) competition between containers made of dif-
6 ferent types of packaging material.

7 PROCEDURE FOR PROMULGATION OF REGULATIONS

8 SEC. 6. (a) Regulations promulgated by the Secretary
9 under section 4 or section 5 of this Act shall be promulgated,
10 and shall be subject to judicial review, pursuant to the pro-
11 visions of subsections (e), (f), and (g) of section 701 of
12 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371
13 (e), (f), and (g)). Hearings authorized or required for
14 the promulgation of any such regulations by the Secretary
15 shall be conducted by the Secretary or by such officer or em-
16 ployee of the Department of Health, Education, and Welfare
17 as he may designate for that purpose.

18 (b) Regulations promulgated by the Commission under
19 section 4 or section 5 of this Act shall be promulgated, and
20 shall be subject to judicial review, by proceedings taken in
21 conformity with the provisions of subsections (e), (f), and
22 (g) of section 701 of the Federal Food, Drug, and Cosmetic
23 Act (21 U.S.C. 371 (e), (f), and (g)) in the same man-
24 ner, and with the same effect, as if such proceedings were
25 taken by the Secretary pursuant to subsection (a) of this

1 section. Hearings authorized or required for the promulga-
2 tion of any such regulations by the Commission shall be con-
3 ducted by the Commission or by such officer or employee
4 of the Commission as the Commission may designate for that
5 purpose.

6 (c) In carrying into effect the provisions of this Act, the
7 Secretary and the Commission are authorized to cooperate
8 with any department or agency of the United States, with
9 any State, Commonwealth, or possession of the United States,
10 and with any department, agency, or political subdivision of
11 any such State, Commonwealth, or possession.

12 (d) No regulation adopted under this Act shall preclude
13 the continued use of returnable or reusable glass containers
14 for beverages in inventory or with the trade as of the effec-
15 tive date of this Act.

16 **ENFORCEMENT**

17 **SEC. 7. (a)** Any consumer commodity which is a food,
18 drug, device, or cosmetic, as each such term is defined by sec-
19 tion 201 of the Federal Food, Drug, and Cosmetic Act (21
20 U.S.C. 321), and which is introduced or delivered for intro-
21 duction into commerce in violation of any of the provisions
22 of this Act, or the regulations issued pursuant to this Act,
23 shall be deemed to be misbranded within the meaning of
24 chapter III of the Federal Food, Drug, and Cosmetic Act,
25 but the provisions of section 303 of that Act (21 U.S.C. 333)

1 shall have no application to any violation of section 3 of
2 this Act.

3 (b) Any violation of any of the provisions of this Act,
4 or the regulations issued pursuant to this Act, with respect
5 to any consumer commodity which is not a food, drug, de-
6 vice, or cosmetic, shall constitute an unfair or deceptive act
7 or practice in commerce in violation of section 5(a) of the
8 Federal Trade Commission Act and shall be subject to en-
9 forcement under section 5(b) of the Federal Trade Commis-
10 sion Act.

11 (c) In the case of any imports into the United States
12 of any consumer commodity covered by this Act, the pro-
13 visions of sections 4 and 5 of this Act shall be enforced by
14 the Secretary of the Treasury pursuant to section 801 (a)
15 and (b) of the Federal Food, Drug, and Cosmetic Act (21
16 U.S.C. 381).

17 REPORTS TO THE CONGRESS

18 SEC. 8. Each officer or agency required or authorized
19 by this Act to promulgate regulations for the packaging or
20 labeling of any consumer commodity, or to participate in the
21 development of voluntary product standards with respect
22 to any consumer commodity under procedures referred to in
23 section 5(e) of this Act, shall transmit to the Congress in
24 January of each year a report containing a full and complete
25 description of the activities of that officer or agency for the

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1 administration and enforcement of this Act during the pre-
2 ceding fiscal year.

3 COOPERATION WITH STATE AUTHORITIES

4 SEC. 9. (a) A copy of each regulation promulgated
5 under this Act shall be transmitted promptly to the Secretary
6 of Commerce, who shall (1) transmit copies thereof to all
7 appropriate State officers and agencies, and (2) furnish to
8 such State officers and agencies information and assistance
9 to promote to the greatest practicable extent uniformity in
10 State and Federal regulation of the labeling of consumer
11 commodities.

12 (b) Nothing contained in this section shall be construed
13 to impair or otherwise interfere with any program carried
14 into effect by the Secretary of Health, Education, and Wel-
15 fare under other provisions of law in cooperation with State
16 governments or agencies, instrumentalities, or political sub-
17 divisions thereof.

18 DEFINITIONS

19 SEC. 10. For the purpose of this Act—

20 (a) The term “consumer commodity”, except as other-
21 wise specifically provided by this subsection, means any food,
22 drug, device, or cosmetic (as those terms are defined by the
23 Federal Food, Drug, and Cosmetic Act), and any other
24 article, product, or commodity of any kind or class which is
25 customarily produced or distributed for sale through retail

1 sales agencies or instrumentalities for consumption by indi-
2 viduals, or use by individuals for purposes of personal care
3 or in the performance of services ordinarily rendered within
4 the household, and which usually is consumed or expended
5 in the course of such consumption or use. Such term does
6 not include—

7 (1) any meat or meat product, poultry or poultry
8 product, or tobacco or tobacco product;

9 (2) any commodity subject to packaging or label-
10 ing requirements imposed by the Secretary of Agri-
11 culture pursuant to the Federal Insecticide, Fungicide,
12 and Rodenticide Act, or the provisions of the eighth
13 paragraph under the heading "Bureau of Animal Indus-
14 try" of the Act of March 4, 1913 (37 Stat. 832-833;
15 21 U.S.C. 151-157), commonly known as the Virus-
16 Serum-Toxin Act;

17 (3) any drug subject to the provisions of sections
18 503(b)(1) or 506 of the Federal Food, Drug, and
19 Cosmetic Act (21 U.S.C. 353(b)(1), 355, 356, 357);

20 (4) any beverage subject to or complying with
21 packaging or labeling requirements imposed under the
22 Federal Alcohol Administration Act (27 U.S.C. 201
23 et seq.); or

24 (5) any commodity subject to the provisions of the
25 Federal Seed Act (7 U.S.C. 1551-1610).

1 (b) The term “package” means any container or wrap-
2 ping in which any consumer commodity is enclosed for use
3 in the delivery or display of that consumer commodity to
4 retail purchasers, but does not include—

5 (1) shipping containers or wrappings used solely
6 for the transportation of any consumer commodity in
7 bulk or in quantity to manufacturers, packers, or proces-
8 sors, or to wholesale or retail distributors thereof;

9 (2) shipping containers or outer wrappings used
10 by retailers to ship or deliver any commodity to retail
11 customers if such containers and wrappings bear no
12 printed matter pertaining to any particular commodity;
13 or

14 (3) containers subject to the provisions of the Act
15 of August 3, 1912 (37 Stat. 250, as amended; 15
16 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat.
17 1186, as amended; 15 U.S.C. 234-236), the Act of
18 August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C.
19 251-256), or the Act of May 21, 1928 (45 Stat. 685,
20 as amended; 15 U.S.C. 257-257i).

21 (c) The term “label” means any written, printed, or
22 graphic matter affixed to any consumer commodity or affixed
23 to or appearing upon a package containing any consumer
24 commodity;

1 (d) The term "person" includes any firm, corporation,
2 or association;

3 (e) The term "commerce" means (1) commerce be-
4 tween any State, the District of Columbia, the Common-
5 wealth of Puerto Rico, or any territory or possession of the
6 United States, or territory and any place outside thereof,
7 and (2) commerce within the District of Columbia or
8 within any territory or possession of the United States not
9 organized with a legislative body, but shall not include ex-
10 ports to foreign countries; and

11 (f) The term "principal display panel" means that
12 part of a label that is most likely to be displayed, presented,
13 shown, or examined under normal and customary conditions
14 of display for retail sale.

15 SAVING PROVISION

16 SEC. 11. Nothing contained in this Act shall be con-
17 strued to repeal, invalidate, or supersede—

18 (a) the Federal Trade Commission Act or any
19 statute defined therein as an antitrust Act;

20 (b) the Federal Food, Drug, and Cosmetic Act; or

21 (c) the Hazardous Substances Labeling Act.

22 EFFECT UPON STATE LAW

23 SEC. 12. It is hereby expressly declared that it is the
24 intent of the Congress to supersede any and all laws of the

1 *States and political subdivisions thereof insofar as they may*
2 *now or hereafter provide for the labeling of the net quantity*
3 *of contents of the package of any consumer commodity cov-*
4 *ered by this Act which differs from the requirements of section*
5 *4 of this Act or regulations promulgated pursuant thereto.*

6 *EFFECTIVE DATE*

7 *SEC. 13. This Act shall take effect on the first day of*
8 *the sixth month beginning after the date of its enactment:*
9 *Provided, That the Secretary (with respect to any consumer*
10 *commodity which is a food, drug, device, or cosmetic), and*
11 *the Commission (with respect to any other consumer com-*
12 *modity) may by regulation postpone, for an additional*
13 *twelve-month period, the effective date of this Act with*
14 *respect to any class or type of consumer commodity on the*
15 *basis of a finding that such a postponement would be in the*
16 *public interest.*

89TH CONGRESS
2D SESSION

Calendar No. 1151
S. 985
[Report No. 1186]

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

By Mr. HART, Mr. BARTLETT, Mr. CLARK, Mr. DOUGLAS, Mr. KENNEDY of New York, Mr. LONG of Missouri, Mr. MCINTYRE, Mr. McNAMARA, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mrs. NEUBERGER, and Mr. RIBICOFF

FEBRUARY 3, 1965

Read twice and referred to the Committee on
Commerce

MAY 25, 1966

Reported with an amendment

volunteer leaders, spouses and minor children), section 8 (training), section 17 (foreign currencies), and section 24 (foreign language proficiency) would be made applicable to Exchange Peace Corps volunteers by the President or his delegate. Examples of act provisions not appropriate for application to Exchange Peace Corps volunteers are section 5(f) (United States Government retirement system volunteer service credit) and section 5(j) (volunteer oath).

The provisions of five other acts now specifically refer to Peace Corps volunteers and volunteer leaders (including applicants for enrollment thereas). Application of four of those acts to Exchange Peace Corps volunteers would not now seem to be appropriate. They are the Civil Service Retirement Act, as amended (5 U.S.C. § 2253 *et seq.*), the Higher Education Act of 1965 (20 U.S.C. § 1001 *et seq.*), the National Defense Education Act of 1958, as amended (20 U.S.C. § 425 *et seq.*) and the Social Security Act, as amended (42 U.S.C. § 301 *et seq.*).

The applicability of the fifth act, the Internal Revenue Code of 1954 (26 U.S.C. § 1 *et seq.*) is still under consideration. Provisions of the Internal Revenue Code require the inclusion in the gross income of Peace Corps volunteers and volunteer leaders of amounts received as allowances, except those portions of living allowances determined not to be basic compensation. They also exempt from withholding at the source Peace Corps volunteer or volunteer leader allowances other than the readjustment allowance. Section 202 would authorize the President to make these provisions applicable to Exchange Peace Corps volunteers. If he should decide not to make them applicable, then absent other Executive action Exchange Peace Corps volunteers would be subject to Federal income taxation in exactly the same manner as all other foreign citizens or nationals similarly situated.

Provisions of the Code also deem Peace Corps volunteer and volunteer leader service to be employment and certain allowances to be wages for Federal Insurance Contributions Act purposes. Like application of the Social Security Act, application of these Code provisions to Exchange Peace Corps volunteers would not seem to be appropriate. As holders of visas under section 101(a)(15)(J) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1101(a)(15)(J)), Exchange Peace Corps volunteers will not be considered to be employed for Federal Insurance Contributions Act purposes under section 3121(b) of the Code. That section was added by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. § 2451 *et seq.*). That act also made the Social Security Act, as amended, inapplicable to holders of such visas.

The first section 202 proviso provides that, for the purposes of title II activities, the term "abroad" in subsection (2) of section 5(d) of the act, which relates to Federal Employees' Compensation Act medical services and disability benefits, shall mean outside of the country or area of which Exchange Peace Corps volunteers are citizens or nationals. Thus, Exchange Peace Corps volunteers outside their country or area will be entitled to the same FECA coverage to which Peace Corps volunteers outside the United States are entitled.

The second section 202 proviso provides that Exchange Peace Corps volunteers shall be deemed not to be citizens or residents of the United States, any Territory or Canada for the purpose of section 42 of the Federal Employees' Compensation Act (5 U.S.C. § 793) and, wherever injured shall, for purposes of that section, be deemed to be injured outside the United States in the countries or areas of which they are citizens or nationals. This will ensure that, regardless of where Exchange volunteers are injured, the United States Government may pay dis-

ability and death compensation to them or their beneficiaries in the currencies of their countries or areas and in amounts less than the minimum prescribed by the act but appropriate to the standard of living in those countries or areas.

Subsection (b).—Amends two sections of title I of the act.

Paragraph (1) amends section 9 of the act, which relates to participation of foreign nationals, to add to the purposes for which the President may make provision carrying out the purposes of title II of the act. The principal reasons for this amendment are to make applicable to Exchange Peace Corps volunteers authority to provide health and accident insurance and to provide for admission to and deportation from the United States. Exchange Peace Corps volunteers would be admitted to the United States as non-immigrants under section 101(a)(15)(J) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1101(a)(15)(J)). They would be subject to the security investigation normally conducted of persons from the country in question who are admitted to the United States thereunder.

Generally, the provisions of section 5 of the act relating to volunteers will be relied upon to provide transportation, housing, subsistence or per diem in lieu thereof to Exchange Peace Corps volunteers. The similar section 9 authorities would permit agreements with countries or areas whose citizens and nationals participate in their own voluntary service programs for their service in the United States as members of those programs but not necessarily as Exchange Peace Corps volunteers. Also, under section 9, as amended, foreign nationals could come to the United States to participate in the training or administration of Exchange Peace Corps volunteers as they now come to participate in the training of Peace Corps volunteers.

Paragraph (2) amends section 10(a)(3) of the act, which relates to acceptance, employment and transfer of gifts of services, money or property, to permit such gifts to be transferred in furtherance of the purposes of this act to entities with which volunteers are not serving as well as to those with which they are. Such entities might be in countries in which volunteers are not serving as well as those in which they are. Under the Peace Corps School-to-School program, United States schools, communities and other entities make available to entities overseas funds to defray part of the costs of school construction. These funds have been, and under expanded School-to-School Partnerships they and supplies and equipment would be, accepted by the Peace Corps and transferred by it to entities overseas.

Paragraph (3) amends section 15(d)(7) of the act, which relates to the utilization of funds for unforeseen emergencies or contingencies, to strike out "arising in the Peace Corps". Section 15(d)(7) is available for those emergencies or contingencies for which no provision is made in the act or any other law. Emergencies or contingencies are unforeseen if the Executive Branch has not proposed act provisions to meet them. With the enactment of title II, the phrase "arising in the Peace Corps" might imply that this authority could not be used to meet emergencies or contingencies resulting from or related to Exchange Peace Corps activities. Also, "arising in the Peace Corps" appears unnecessary because in any case funds could be used under section 15(d)(7) only when necessary to carry out the provisions of the act.

AMENDMENT OF TENNESSEE VALLEY AUTHORITY ACT OF 1933

Mr. HILL. Mr. President, on behalf of myself, Mr. SPARKMAN, Mr. GORE, and Mr. BASS, I introduce, for appropriate

reference, a bill to amend the TVA Act of 1933, and ask unanimous consent that it may lie at the desk until the end of next week so that other Senators may have an opportunity to join in sponsoring the legislation.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk, as requested by the Senator from Alabama.

The bill (S. 3419) to amend the Tennessee Valley Authority Act of 1933, as amended, to increase the limitation on the authority to issue bonds to finance its power program, introduced by Mr. HILL (for himself and other Senators) was received, read twice by its title, and referred to the Committee on Public Works.

AMENDMENT OF AGRICULTURAL ADJUSTMENT ACT, AS AMENDED, RELATING TO MARKETING ORDERS FOR CHERRIES

Mr. HART. Mr. President, on behalf of myself and Senator PROXMIRE, of Wisconsin, I send to the desk a bill amending the Agricultural Marketing Agreement Act of 1937 as it relates to marketing orders for cherries.

For some years now it has been my hope that there could be developed a workable marketing order agreement to help stabilize the marketing procedures and improve the income of growers of red tart cherries in the Great Lakes basin.

In 1965 a marketing order hearing and referendum was conducted by the U.S. Department of Agriculture for the cherry industry. The referendum failed to obtain sufficient votes of either the growers or the processors.

Earlier this year grower organizations urged the Department of Agriculture to conduct further hearings and develop a new proposed marketing order for submission to referendum. The Department did not call for such hearings. While agreeing that there was probably sufficient support now among growers for a carefully developed order, the Department indicated that its informal inquiries continued to indicate strong opposition from large processors to any marketing order.

The red tart cherry industry last year had a bumper crop so large that prices on this highly perishable crop fell drastically and many growers did not even bother to pick the crop. This year we have evidence that a severe freeze has reduced the prospects for a crop and there will be another year of economic loss to the growers. Certainly such variations in the crop could be handled in a fashion that would provide some more adequate return to the growers if there were an industry marketing order.

For 2 years I have served as a member of the National Commission on Food Marketing. The work of this Commission is almost complete. From the studies undertaken by the Commission and the testimony it received, we know that there has been a dramatic reduction of almost 50 percent over the past 5 years

in the number of processors in the cherry industry. This fact alone indicates the difficulty of ever obtaining agreement from the processors for a meaningful marketing order.

The most encouraging information—information that leads me to introduce this amendment during this session—comes from preliminary reports of a Michigan State University survey of red tart cherry growers as to how they now feel regarding a cherry marketing order. I have been informed that the preliminary findings of this study indicate that well over the required two-thirds of the growers responding would today favor a marketing order that would include provisions relating to industry economic information services, product promotion advertising, product research, quality control, and quantity marketing controls in large crop years. This study will be available in the next few weeks, and I believe will be an important source of guidance for the committees considering this amendment.

It is my belief that there is widespread support among cherrygrowers for a sound marketing order for this crop today. The continued concentration of the cherry processing industry, and the informal surveys by the Department of Agriculture indicate no real prospect that there could be obtained agreement by processors under the terms of the present act for any order.

It is economically important to this important segment of our Great Lakes fruit industry that the growers in the years ahead be afforded the protection and income security that could be achieved through a marketing order under the Federal Marketing Agreements Act.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3420) to amend the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, so as to eliminate certain requirements with respect to effectuating marketing orders for cherries, introduced by Mr. HART (for himself and Mr. PROXMIER), was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

FAIR PACKAGING AND LABELING ACT—AMENDMENT

AMENDMENT NO. 572

Mr. COTTON. Mr. President, I submit, so that it may be printed and lie on the table, an amendment to S. 985, the Fair Packaging and Labeling Act. I also ask unanimous consent that the amendment may be printed at this point in the record.

It is, of course, my intention to call this amendment up at the appropriate point in the Senate's consideration of this legislation.

If adopted, this amendment would strike from the bill its most controversial feature—the packaging control provisions contained in subsections 5 (d), (e), (f), and (g).

These subsections confer on officials downtown the power to ultimately determine the sizes and weights in which commodities shall be packaged or bottled. They put in the hands of a bureaucrat the authority to standardize packaging. Such a step would limit, if not stifle, competition. It would make it more difficult for new and small producers to secure a place in the market by presenting their merchandise in new and distinctive sizes. It would compel manufacturers to spend millions of dollars in changing their machinery to conform to the edict of a Federal official. Everyone of these results will add costs to the consumer—whom this bill is supposed to protect.

These subsections would enable a Federal bureaucracy to flex its muscles and to establish autocratic power in the marketplace—to the detriment of the consumer, as well as the producer and manufacturer.

If this amendment is adopted, I shall support the bill. If the amendment is defeated, I must continue to oppose this as bad, even vicious, legislation.

I shall support the bill, if the amendment is adopted, because of its strengthened labeling provisions, many of which resulted from amendments which I offered in the committee and which were adopted by the committee.

Packages should be labeled so the busy housewife can determine their contents without juggling the package six different ways, without having to convert from pint and pounds into ounces, and without the need for a magnifying glass.

The amendments I offered in the committee are aimed at clear and conspicuous disclosure of the nature and amount in every package of consumer commodities. Once the shopper has that information, she does not need help from the Government in determining which product to buy.

The specific provisions added to the bill by the amendments I suggested include the following requirements:

First. Labels bear the name and place of business of the manufacturer, packer, or distributor;

Second. The net content be separately stated and appear in a uniform location on the package;

Third. The net content of packages of less than 4 pounds or 1 gallon be expressed in ounces, rather than in mixed units of pounds and ounces or pints and ounces;

Fourth. The net content statement be generally parallel to the bottom of the package; and

Fifth. The statement of net content be unadorned by any qualifying words or phrases.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 572) is as follows:

Beginning on page 20, line 8, strike out all of subsections (d), (e), (f), and (g) of section 5, down to and including line 6 on page 23.

ADDITIONAL COSPONSORS OF BILLS

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that at its next printing the name of the senior Senator from Hawaii [Mr. FONG] be added as a cosponsor to S. 2877, a bill to establish a National Community Senior Service Corps.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG of Louisiana. Mr. President, I ask unanimous consent that at its next printing the name of the senior Senator from Indiana [Mr. HARTKE] be added as a cosponsor to S. 3273, the Dairy Import Act of 1966.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. DOUGLAS:

Statement by him regarding the 20th anniversary of the founding of the Republic of Italy.

Statement by him regarding the 48th anniversary of Armenian Independence Day.

By Mr. YARBOROUGH:

Statement by him regarding book entitled "To Save the Soil," written by Mrs. Naomi Talley.

BIG MAN FROM ALASKA

Mr. GRUENING. Mr. President, an excellent article on my colleague, E. L. "BOB" BARTLETT, entitled "Big Man From Alaska," appears in the current issue of Agenda magazine, published by the Industrial Union Department of the AFL-CIO. It is a well-deserved tribute and summary of some of his many achievements as an outstanding public servant.

I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BIG MAN FROM ALASKA

Even in an era of "government by consensus," a nonpartisan dinner saluting a political figure is news. The event is particularly newsworthy if it attracts enough political figures of all persuasions, and other interested persons, to fill three large banquet rooms.

So it was not surprising that Alaska newspapers back in May 1965 headlined plans for a dinner in Anchorage honoring the state's senior Senator, E. L. (BOB) BARTLETT.

Nor was it surprising that the dinner, marking Senator BARTLETT's 20th year in Washington, should attract such interest. As Marquis W. Childs, nationally syndicated columnist recently observed, Senator BARTLETT is "closely identified with the destiny of the state."

No less an authority than the late Speaker of the House Sam Rayburn credited BOB BARTLETT as the reason Alaska achieved statehood in 1958. And probably 90 percent of the more than 700 persons who attended the dinner last May would testify to the Senator's key role in the rebirth of the state following the earthquake in 1964.

The legislative package put together under BARTLETT's leadership in the hectic days fol-

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

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Issued June 2, 1966
For actions of June 1, 1966
89th 2nd; No. 90

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HIGHLIGHTS: Senate passed bill to permit alternate crops on acreage unplanted because of natural disaster. Senate debated fair packaging-labeling bill. House committee reported bill to make various amendments to Economic Opportunity Act.

SENATE

1. DISASTER RELIEF. Passed, 56-10, with amendments H. R. 15151, to permit the planting of alternate crops on acreage unplanted because of natural disaster. Agreed, 42-27, to an amendment by Sen. Williams, Del., to provide that payments made pursuant to the act shall not exceed \$10,000 to any producer. Rejected a motion by Sen. Miller to refer the bill back to committee, an amendment by Sen. Williams, Del., to limit the bill to 1 year, an amendment by Sen. Miller to give one-half the payments which would otherwise be received to farmers who could not plant their crops, etc., and an amendment by Sen. Williams, Del., to limit the bill to the 1966 and 1967 crops. Senate conferees were appointed.

pp. 11413-33

2. PACKAGING; LABELING. Continued debate on S. 985, the fair packaging and labeling bill. pp. 11420, 11430-1, 11433-5
3. DAIRY IMPORTS. Sen. Pearson was added as a cosponsor of S. 3273, the dairy imports bill. p. 11363
4. WATER RESOURCES. Sens. Church and Nelson were added as cosponsors of S. 3107, to provide for a comprehensive review of water resource problems and programs. p. 11363
Sen. Tydings inserted an article recommending research on water-pollution control on the estuaries as well as large rivers. pp. 11397-8
Senate conferees were appointed on S. 254, to authorize the Interior Department to construct, operate, and maintain the Tualatin reclamation project, Oreg. House conferees have not yet been appointed. pp. 11435-6
The Interior and Insular Affairs Committee voted to report (but did not actually report) S. 3107, to provide for a comprehensive review of water resource problems and programs. p. D474
5. FLAG. Passed without amendment H. J. Res. 763, requesting the President to proclaim the week in which June 14 occurs as National Flag Week. This joint resolution will now be sent to the President. p. 11363
6. TRANSPORTATION. Sen. Lausche recommended against any increase in toll rates on the St. Lawrence Seaway. pp. 11371-2
7. PERSONNEL. Sen. Williams, Del., claimed Federal employment increased after the President said he would reduce it. pp. 11372-3
Sen. Long, La., defended the level of Federal employment. pp. 11466-7
8. INTERNATIONAL ORGANIZATIONS. Sen. Javits inserted tables showing U. S. contributions to international organizations. pp. 11379-83
9. FISH PRODUCTS. Sen. Bartlett inserted Sen. Magnuson's speech recommending the use of fish proteins to alleviate the world food shortage. pp. 11394-6
10. MEAT GRADING. Sen. Long, Mo., commended the grading program as an aid to the housewife in buying meat. p. 11398
11. DISASTER WARNING. Sen. Pearson spoke in favor of a natural disaster warning system for storms, blizzards, etc. p. 11398
12. INFLATION. Sen. Symington inserted an article claiming the retired are hurt by inflation. pp. 11398-9
13. SCHOOL MILK. Sen. Proxmire claimed the administration's child-nutrition proposal would result in less milk consumption among needy children. p. 11399
14. SOIL CONSERVATION. Sen. Church inserted D. A. Williams' speech, "Conservation Challenges in a Changing World," before the First Pan American Soil Conservation Congress. pp. 11409-10

an acre for a crop that he has never planted and then plant the same acreage in soybeans.

There are thousands of American farmers who grow nothing but soybeans. They are not protected either under the existing law or under the pending bill. If they are washed out they just go bankrupt.

Mr. MURPHY. If they are not washed out, they are penalized in their operation to the extent that the other farmers who have been washed out collected from the Government before planting the soybeans.

Mr. WILLIAMS of Delaware. The independent farmer would be penalized in two ways. As a taxpayer he must contribute to the payment of \$105 per acre that the cotton farmer will be receiving when the cotton is not planted. In addition to that, the soybeans that would be produced on diverted acreage would be sold in the market in competition next fall with the crop of the independent soybean grower. So, he would be caught both ways.

Mr. MURPHY. The inequity is against the American taxpayer who must pay the bill.

Mr. WILLIAMS of Delaware. There is no question about that. As was pointed out in the example a moment ago, one individual was cited as having over 1,000 acres of cotton with an average yield of 4 bales of cotton per acre. That particular individual could collect up to \$200 per acre from the Federal Government on land that he has never plowed or planted. After he collects the \$200,000 from the Federal Government, he can then raise 1,000 acres of soybeans under the price-support program, and the taxpayers will support that endeavor.

I will modify my amendment along the lines of the suggestion of the Senator from New Mexico in order to get support. I really believe that \$5,000 is very reasonable, but I shall modify my amendment to \$10,000. The amendment, as modified, would then give to each individual farmer as high as \$20,000 because after he collects his \$10,000 on his acreage which was not planted he can also collect a comparable amount on his diverted acreage. Certainly a \$20,000 payment to an individual farmer for a crop that he does not intend to produce is equitable enough when we consider that in addition to that he can use the same acreage to produce another crop.

In order to make some progress, I modify my amendment to change the "\$5,000" to "\$10,000".

The PRESIDING OFFICER. The amendment is modified accordingly.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Delaware. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Tennessee [Mr. GORE], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Maryland [Mr. TYDINGS], and the Senator from Oregon [Mr. MORSE] are absent on official business.

I also announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Oklahoma [Mr. HARRIS], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Montana [Mr. METCALF], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from South Carolina [Mr. RUSSELL], the Senator from Florida [Mr. SMATHERS], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Georgia [Mr. TALMADGE] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. ERVIN] is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from Ohio [Mr. LAUSCHE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from Florida [Mr. SMATHERS], and the Senator from Georgia [Mr. TALMADGE] would each vote "nay."

On this vote, the Senator from Louisiana [Mr. ELLENDER] is paired with the Senator from Rhode Island [Mr. PASTORE]. If present and voting, the Senator from Louisiana would vote "nay" and the Senator from Rhode Island would vote "yea."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] is absent on official business.

The Senator from Vermont [Mr. AIKEN], the Senator from Delaware [Mr. BOGGS], the Senator from Kansas [Mr. CARLSON], the Senator from Michigan [Mr. GRIFFIN], the Senator from Pennsylvania [Mr. SCOTT] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

If present and voting, the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from Delaware [Mr. BOGGS] is paired with the Senator from Kansas [Mr. CARLSON]. If present and voting, the Senator from Delaware would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 42, nays 27, as follows:

[No. 82 Leg.]

YEAS—42

Allott	Dirksen	Morton
Anderson	Dominick	Murphy
Bartlett	Douglas	Muskie
Bayh	Gruening	Nelson
Bennett	Hartke	Pearson
Brewster	Hickenlooper	Pell
Byrd, Va.	Hruska	Prouty
Cannon	Jackson	Robertson
Case	Javits	Saltonstall
Church	Jordan, Idaho	Smith
Clark	Kennedy, Mass.	Williams, N.J.
Cooper	Kennedy, N.Y.	Williams, Del.
Cotton	McIntyre	Young, Ohio
Curtis	Miller	

NAYS—27

Bass	Long, Mo.	Proxmire
Byrd, W. Va.	Long, La.	Randolph
Eastland	Mansfield	Russell, Ga.
Fannin	McCarthy	Stennis
Fulbright	McClellan	Symington
Hart	McGee	Thurmond
Hill	Monroney	Tower
Holland	Moss	Yarborough
Kuchel	Neuberger	Young, N. Dak.

NOT VOTING—31

Aiken	Harris	Pastore
Bible	Hayden	Ribicoff
Boggs	Inouye	Russell, S.C.
Burdick	Jordan, N.C.	Scott
Carlson	Lausche	Simpson
Dodd	Magnuson	Smathers
Ellender	McGovern	Sparkman
Ervin	Metcalfe	Talmadge
Fong	Mondale	Tydings
Gore	Montoya	
Griffin	Morse	

So the modified amendment of Mr. WILLIAMS of Delaware was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BASS. Mr. President, since there are no more amendments pending on the legislation presently under consideration, I wonder if we could get an agreement on a time to vote on final passage of the bill.

Mr. WILLIAMS of Delaware. Surely. I will agree to a vote after we get through with the discussion.

Mr. BASS. Would the Senator agree to a vote on final passage at 4:30?

Mr. WILLIAMS of Delaware. I have no intention of delaying the bill and I have not been delaying it. I am only trying to educate the Senate on what the bill really does. I believe we are making progress.

Since the preceding votes several Senators have indicated that they misunderstood one of the votes and now agree that this proposal should be limited to 1 year.

I wonder if the Senator from Tennessee would agree to our resubmitting the amendment for a 1-year limit on this measure or to the emergency described?

Mr. BASS. No; the Senator is committed to the bill in its present form and would not be in a position to enter into any such agreement.

Mr. WILLIAMS of Delaware. Then I would say that the Senator answered his own question as to agreement.

Mr. President, I send to the desk an amendment which would limit the bill to 2 years.

I really think it should be limited to 1 year for certainly no man can foresee an emergency 4 years in advance.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill insert the following new section:

"Sec. —. The amendments made by this Act shall be effective for the 1966 and 1967 crops only."

FAIR PACKAGING AND LABELING ACT

Mr. COTTON. Mr. President, will the Senator yield to me for a moment?

Mr. WILLIAMS of Delaware. I yield.

Mr. COTTON. Mr. President, when we convened today, the pending business before the Senate was the so-called truth in packaging bill, S. 985, reported by the Committee on Commerce.

Now, some of the members of our committee and others, anticipating that that measure would be reached today—at least debated, and a vote had on a rather important amendment either today or the first thing tomorrow—had made their plans accordingly.

The Senator from New Hampshire was not present when the Senate came to order and was not aware of the fact that this was going to be set aside for this argument about the cotton-soybean problem.

The result has been that this day has been eaten up, and clearly the rest of it is going to be eaten up, on this cotton-soybean measure. We are not going to have any opportunity for debate or votes on the packaging bill. Some of those who had expected to be present and have an opportunity to vote on a rather important amendment to the packaging bill, will no longer be present. Some Senators have already had to leave the Chamber to keep appointments and they will not be back this week.

I am sure that the majority leader understands the Senator from New Hampshire rarely causes trouble in the matter of the calendar and never for the purpose of being obstructive. But the truth in packaging measure was attacked in the Committee on Commerce—and I think Senators on both sides of the committee will bear me out—in a spirit of cooperation and not antagonism.

We all felt there were merits in the bill. Most of us feel there are merits in the bill. Certain elements were justified and should be strengthened, and that should be done.

While we were in strong disagreement with respect to some provisions of the bill, we helped strengthen the bill in other particulars.

Then we found that the proponents of the bill were absolutely adamant in yielding an inch on some parts of the bill that we considered extremely dangerous legislation.

Now, having consumed today, when we expected to consider what I predict will be a highly controversial measure, I can foresee that when evening comes,

and this foray on cotton and soybeans is ended, that as a matter of course the leadership is going to call up the truth-in-packaging measure, make it the pending business, and we will be reaching a vote on the important amendments when Senators who had anticipated being here will not be present.

I think it is only fair to say that if unanimous consent is desired to make the truth-in-packaging measure the pending business that the Senator from New Hampshire will be constrained to object, unless we can have some agreement so that we have our people present. Otherwise, the Senator from New Hampshire may have some rather extended comments to make on the wisdom and the equity of putting this back as the pending business of the Senate after it has been thrown aside and an entire day consumed on another measure.

I felt it only fair to say this at this time, before the debate is resumed.

I thank the Senator from Delaware for yielding to me.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. COTTON. I do not have the floor, but I yield.

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, it was anticipated that the truth-in-packaging bill would be taken up at the conclusion of the morning business today.

Unfortunately, the distinguished Senator from Washington [Mr. MAGNUSON] had to be in New York, I understand, where his wife is ill. He had to look after her, and he was not due back until late this afternoon.

After discussion of the matter with the distinguished minority leader, it was agreed that instead of taking the matter up today it would be advisable, in view of the development relative to the Senator from Washington [Mr. MAGNUSON], that it be taken up tomorrow. That is all that I can offer in explanation at this time.

Mr. COTTON. The Senator from New Hampshire understands the situation in regard to the distinguished chairman of the Committee on Commerce. I would be the last person to object to any consideration being given to him. We most certainly could not take up a bill and have a vote, even on the amendments, without the chairman present, and that is thoroughly understood.

There will be some rather extended debate before we get to a vote on the first amendment.

Even though the distinguished Senator from Washington [Mr. MAGNUSON] were not present we could at least have gotten much of the debate disposed of so that we could have voted tomorrow and those who are leaving would have been present.

Having failed to do that, I should say there would be little prospect of coming to a vote tomorrow at least on the most important amendment. Unless the voting goes over until next week, the Senator from New Hampshire will have to persist in discussing rather deeply the situation with which we are confronted, when the question comes to putting the measure back before the Senate. I am sorry, but I felt that in fairness I should

call this matter to the attention of the majority leader.

Mr. MANSFIELD. I appreciate the statement of the distinguished Senator from New Hampshire. I feel certain that he appreciates the delicate position in which the chairman of the committee [Mr. MAGNUSON] found himself.

After discussing the situation with the distinguished minority leader—in fact, it was the minority leader's suggestion—it was agreed that because of those circumstances, we would not attempt to take up the bill this afternoon.

Would it be agreeable to the Senator from New Hampshire to have the Senate convene at 10 o'clock tomorrow morning? Would that help any?

Mr. COTTON. No. The members of the committee who came to the Senate today either have left or will leave tonight. That will make it extremely difficult to take action tomorrow.

Mr. HRUSKA. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. HRUSKA. I might also suggest to the majority leader that if the amendment to be proposed is that of the Senator from New Hampshire, as I presume it will be, there will be quite a bit of discussion. That amendment is at the center, at the core, of the matter. If it is adopted, I have one idea as to the future course of the legislation. If it is rejected, there will be additional discussion, including a motion to recommit the bill to the Committee on the Judiciary for a consideration of the antitrust aspects. I would not hold out any hope for a vote to come tomorrow, whether the session of the Senate began at 10 o'clock or 12 o'clock, for the subject will be an amendment to be proposed by the Senator from New Hampshire.

Mr. MANSFIELD. I can read the handwriting on the wall.

Mr. COTTON. I would add, for the benefit of the distinguished majority leader, that the attitude of the Senator from New Hampshire is, frankly, animated by the fact that we could have had a bill. The entire committee could have supported it if we could have had a meeting of the minds. We were expected to make all the concessions; the other side would not move an inch. Therefore, we intend to fight for this amendment to the bitter end.

If it is adopted, there will be no question about the passage of the bill. It is an amendment that I am sure—not sure, no one could be—that I would predict the House would accept. If it is not accepted, the bill will very well pass the Senate, but whether it will become law is another matter. I do not want to get into the merits.

In view of the fact that through long hours and days the committee worked hard to come in with a kind of bill which would be constructive and which would take care of the problem that has to be taken care of, and which would not put any Member of this body on the spot and being pointed at with the finger of scorn because he did not have due regard for the consumers and housewives of America. But, it is insisted that we have a "going" issue instead of a bill. If that

is what the insistence is, then that is what we are going to have, and I am going to start when the motion comes to put this bill before the Senate.

Mr. HART. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I do not have the floor.

Mr. HART. Before the Senator from New Hampshire leaves—

Mr. COTTON. I am not leaving.

Mr. HART. I wonder whether the Senator from New Hampshire would permit me to suggest that it might not be completely fair to say that the adamancy was on one side only.

One need only review the bill as it was worked on by the committee to recognize not only the correctness of the statement of the Senator from New Hampshire that there is a conscientious effort to give on one side, but there was also, in fact, a giving on the other side as well.

Mr. COTTON. Let me say to the Senator that nothing in my remarks was intended or should be construed as reflecting upon the distinguished Senator from Michigan, or those with whom he is associated.

I admire the Senator from Michigan for the dedication which he has demonstrated to his bill during several sessions of Congress. I was not even suggesting that he was not thoroughly conscientious and inspired by his deepest convictions. The fact remains that this is a matter to be discussed, and it is a matter which will be discussed at some length. The fact also remains that we went just as far as we could go—a long, long way—and then we prepared to go into the matter of the amendment.

The way it is going to work out is that we are going into the matter with our troops absent. That is something I do not intend to have happen. However, nothing I have said could possibly be intended or construed as reflecting on the distinguished Senator from Michigan.

Mr. HART. We do not want to have the Senator from New Hampshire going into the matter without troops either. My point was that twice the Senator commented on the adamancy of one side, his willingness to give, and the fact that he had given. Both sides have given on this bill, and I believe that the RECORD should be straight on it so far as each side felt that it could go.

Mr. COTTON. Let me say, in reply to that statement, that no church or other charitable institution could exist very long on the givings of the Senator's side of the committee, even though it is inspired by deepest convictions.

Mr. MANSFIELD. I would hope that the Senator would not push his promise to talk on just taking up this bill. The Senator will recall that when it was laid aside today, a unanimous consent was made by the distinguished Senator from Tennessee [Mr. BASS] which was objected to by the Senator from Iowa [Mr. MILLER]. The Senator from Tennessee moved that it be laid aside, and that motion was agreed to, which automatically displaced the truth-in-packaging bill as the pending business.

The reason I am asking the Senator from New Hampshire to reconsider his position is on the basis of the fact that both the minority leader and I thought we were doing the Senator from Washington, not a favor, but at least giving him consideration to a private problem he had relative to getting his wife down from New York in order to undergo surgery.

It would be the same if after we did this we were faced with a proposal that we could not even put down as the pending business what I would have put down as the pending business at the time the move was made.

Mr. COTTON. If the Senator from Montana will permit me, let me say that although the Senator from New Hampshire had no knowledge of all this, and had every expectation and hastened back from New Hampshire to be in the Senate for discussion of the bill today.

Of course, the distinguished majority leader and the distinguished minority leader would show consideration to the chairman of the committee, whose wife will undergo surgery. We would all want them to do that. We cannot object to that, of course. But, that having occurred, and the situation coming as it does, if the vote comes on this amendment before the termination of this week, we are not going to feel that we have had our day in court.

If we can debate the bill and vote on it promptly next Monday, that is all right; but if we are going to be forced to a vote on it when everyone is leaving Thursday or Friday, that is something which the Senator from New Hampshire does not wish to have happen. Even though it was done because of consideration for the distinguished chairman of the committee, that is something which I intend to prevent.

Mr. DIRKSEN. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I am glad to yield.

Mr. DIRKSEN. I understand that there are 10, perhaps 11 amendments which will be offered, many of them clarifying and not all of major consequence. But one amendment is. Would the distinguished Senator be willing to agree to have a vote come on that one amendment on Monday next, and to dispose of, in so far as possible, the other amendments by that time?

I may say that sometime before third reading, I propose to ask the Senate to agree to refer the bill back to the Committee on the Judiciary. I am prepared to speak at some length, not overly long, on that matter, because I think the very amendment the Senator refers to now, raises monopoly features in the non-price field that dictate in the Judiciary Committee that we should not only have a further look at it, but I think that we should also hear some testimony from the Chairman of the Federal Trade Commission, from the Attorney General, and perhaps a few other select witnesses. That is the reason for the motion to refer.

Mr. COTTON. The only observation I wish to make about the suggestion of

the distinguished minority leader is this: These so-called amendments that are of a clarifying or corrective nature, and which he suggests we take up the rest of this week are, all of them, to that portion of the bill which, should the principal amendment, my own amendment, be adopted, would be deleted from the bill.

If we proceed on the assumption—which I suppose perhaps we can—that the majority side has the votes, and that when the trumpet is blown they will flock in and win, I suppose we can go ahead. But I would hate to start an honest fight, having a deep conviction, on the principle that I am going to lose because I am going to spend a couple of days sewing up and healing up the cuts before I receive them. None of these amendments would be necessary if the principal amendment were adopted.

Mr. DIRKSEN. How much time does the Senator anticipate taking in the discussion of the bill?

Mr. COTTON. There will be plenty of general discussion on the bill. I am not trying to put out any bait, but should my amendment be adopted, I think the bill would proceed to passage as if it were on slick grease, and that is all there would be to it. But if my amendment is not adopted, I do not know what may happen. I do know one thing. If it is not adopted, there are several other vital amendments to be offered. I am sure there will be rather prolonged discussion.

Mr. DIRKSEN. If we proceeded on a normal basis, starting at noon, having the usual morning hour, Thursday and Friday could well be expended by general discussion of other amendments; so that, by logic, that amendment would go over until Monday, anyway.

Mr. COTTON. And then we will have a situation where we have a half hour to present a vital amendment, having argued for hours on it before an empty chamber.

It is important to get the matter before the entire Senate. It is not a minor matter. There is a rather deep principle involved. The Senator from New Hampshire feels very deeply we are marching into a situation where we are not going to have an opportunity to be heard on this matter.

If we are going to indulge in merely useless debate, we may as well close the debate on the bill. If debate we must have, debate we can have the rest of this week.

PROPOSED PLANTING OF ALTERNATE CROPS ON UNPLANTED ACREAGE

The Senate resumed the consideration of the bill (H.R. 15151) to permit the planting of alternate crops on acreage which is unplanted because of a natural disaster.

Mr. WILLIAMS of Delaware. Mr. President, for the information of the Senate, I announce that so far as the Senator from Delaware is concerned the Senate can vote in 3 minutes. The issue of a time limit was debated earlier today when a one-year proposal was rejected.

The bill we are now considering will last for the duration of the Agricultural Act, which is 4 years. I offered an amendment earlier which would have limited it to 1 year. Unfortunately that amendment was rejected. I understand there were several Senators who misunderstood that proposal and will now vote for a 2-year limitation.

Under the parliamentary situation, I can now only offer an amendment limiting the period to 2 years. Therefore, this amendment would place a 2-year limit on this bill.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN], the Senator from Rhode Island [Mr. PASTORE], and the Senator from Connecticut [Mr. RIBICOFF], are absent on official business.

I also announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Oklahoma [Mr. HARRIS], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Montana [Mr. METCALF], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Virginia [Mr. ROBERTSON], the Senator from South Carolina [Mr. RUSSELL], the Senator from Alabama [Mr. SPARKMAN], and the Senator from Georgia [Mr. TALMADGE], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. ERVIN], is absent because of illness.

I further announce that, if present and voting, the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from Ohio [Mr. LAUSCHE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from Rhode Island [Mr. PASTORE], the Senator from Virginia [Mr. ROBERTSON], and the Senator from Georgia [Mr. TALMADGE], would each vote "nay."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] is absent on official business.

The Senator from Vermont [Mr. AIKEN], the Senator from Delaware [Mr. BOGGS], the Senator from Kansas [Mr. CARLSON], the Senator from Michigan [Mr. GRIFFIN], the Senator from Pennsylvania [Mr. SCOTT], and the Senator

from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from New York [Mr. JAVITS] is detained on official business.

If present and voting, the Senator from New York [Mr. JAVITS], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Wyoming [Mr. SIMPSON] would each vote "yea."

On this vote, the Senator from Delaware [Mr. BOGGS] is paired with the Senator from Kansas [Mr. CARLSON]. If present and voting, the Senator from Delaware would vote "yea" and the Senator from Kansas would vote "nay."

The result was announced—yeas 33, nays 36, as follows:

[No. 83 Leg.]

YEAS—33

Allott	Fannin	Morton
Bennett	Hartke	Mundt
Brewster	Hickenlooper	Murphy
Byrd, W. Va.	Hruska	Muskie
Cannon	Jordan, Idaho	Pearson
Case	Kennedy, Mass.	Prouty
Cooper	Kennedy, N.Y.	Saltonstall
Cotton	Kuchel	Smith
Curtis	McIntyre	Thurmond
Dirksen	Miller	Tower
Dominick	Morse	Williams, Del.

NAYS—36

Anderson	Holland	Pell
Bartlett	Jackson	Proxmire
Bass	Long, Mo.	Randolph
Bayh	Long, La.	Russell, Ga.
Byrd, Va.	Mansfield	Smathers
Church	McCarthy	Stennis
Clark	McClellan	Symington
Douglas	McGee	Tydings
Eastland	Monroney	Williams, N.J.
Fulbright	Moss	Yarborough
Hart	Nelson	Young, N. Dak.
Hill	Neuberger	Young, Ohio

NOT VOTING—31

Aiken	Gruening	Montoya
Bible	Harris	Pastore
Boggs	Hayden	Ribicoff
Burdick	Inouye	Robertson
Carlson	Javits	Russell, S.C.
Dodd	Jordan, N.C.	Scott
Ellender	Lausche	Simpson
Ervin	Magnuson	Sparkman
Fong	McGovern	Talmadge
Gore	Metcalf	
Griffin	Mondale	

So the amendment of Mr. WILLIAMS of Delaware was rejected.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. WILLIAMS of Delaware. On the passage of the bill, I ask for the yeas and the nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Nevada [Mr. BIBLE], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Hawaii [Mr. INOUE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN],

the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Georgia [Mr. RUSSELL], are absent on official business.

I also announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. ELLENDER], the Senator from Oklahoma [Mr. HARRIS], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Montana [Mr. METCALF], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Virginia [Mr. ROBERTSON], the Senator from South Carolina [Mr. RUSSELL], the Senator from Alabama [Mr. SPARKMAN], the Senator from Georgia [Mr. TALMADGE], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. ERVIN], is absent because of illness.

On this vote, the Senator from Tennessee [Mr. GORE], is paired with the Senator from Nebraska [Mr. HRUSKA].

If present and voting, the Senator from Tennessee would vote "Yea" and the Senator from Nebraska would vote "nay."

I further announce that, if present and voting the Senator from Connecticut [Mr. DODD], the Senator from Louisiana [Mr. ELLENDER], the Senator from North Carolina [Mr. ERVIN], the Senator from Oklahoma [Mr. HARRIS], the Senator from North Carolina [Mr. JORDAN], the Senator from Ohio [Mr. LAUSCHE], the Senator from Washington [Mr. MAGNUSON], the Senator from South Dakota [Mr. McGOVERN], the Senator from Montana [Mr. METCALF], the Senator from Minnesota [Mr. MONDALE], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mrs. NEUBERGER], the Senator from Rhode Island [Mr. PASTORE], the Senator from Virginia [Mr. ROBERTSON], the Senator from South Carolina [Mr. RUSSELL], the Senator from Georgia [Mr. RUSSELL], the Senator from Alabama [Mr. SPARKMAN], the Senator from Georgia [Mr. TALMADGE], would each vote "Yea."

Mr. KUCHEL. I announce that the Senator from Hawaii [Mr. FONG] is absent on official business.

The Senator from Vermont [Mr. AIKEN], the Senator from Delaware [Mr. BOGGS], the Senator from Kansas [Mr. CARLSON], the Senator from Michigan [Mr. GRIFFIN], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The Senator from Nebraska [Mr. HRUSKA] and the Senator from New York [Mr. JAVITS] are detained on official business.

If present and voting, the Senator from New York [Mr. JAVITS], the Senator from Pennsylvania [Mr. SCOTT], and the Senator from Wyoming [Mr. SIMPSON] would each vote "nay."

On this vote, the Senator from Kansas [Mr. CARLSON] is paired with the Senator from Delaware [Mr. BOGGS]. If present and voting, the Senator from Kansas

would vote "yea" and the Senator from Delaware would vote "nay."

On this vote, the Senator from Nebraska [Mr. HRUSKA] is paired with the Senator from Tennessee [Mr. GORE]. If present and voting, the Senator from Nebraska would vote "nay" and the Senator from Tennessee would vote "yea."

The result was announced—yeas 56, nays 10, as follows:

[No. 84 Leg.]

YEAS—56

Allott	Hart	Murphy
Anderson	Hartke	Muskie
Bartlett	Hill	Nelson
Bass	Holland	Pearson
Bayh	Jackson	Pell
Brewster	Kennedy, Mass.	Proxmire
Byrd, Va.	Kennedy, N.Y.	Randolph
Byrd, W. Va.	Kuchel	Smathers
Cannon	Long, Mo.	Smith
Church	Long, La.	Stennis
Clark	Mansfield	Symington
Cooper	McCarthy	Thurmond
Curtis	McClellan	Tower
Dirksen	McGee	Tydings
Dominick	Monroney	Williams, N.J.
Douglas	Morse	Yarborough
Eastland	Morton	Young, N. Dak.
Fannin	Moss	Young, Ohio
Fulbright	Mundt	

NAYS—10

Bennett	Jordan, Idaho	Saltonstall
Case	McIntyre	Williams, Del.
Cotton	Miller	
Hickenlooper	Prouty	

NOT VOTING—34

Aiken	Harris	Neuberger
Bible	Hayden	Pastore
Boggs	Hruska	Ribicoff
Burdick	Inouye	Robertson
Carlson	Javits	Russell, S.C.
Dodd	Jordan, N.C.	Russell, Ga.
Ellender	Lausche	Scott
Ervin	Magnuson	Simpson
Fong	McGovern	Sparkman
Gore	Metcalf	Talmadge
Griffin	Mondale	
Gruening	Montoya	

So the bill (H.R. 15151) was passed.

Mr. BASS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BASS. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ELLENDER, Mr. HOLLAND, Mr. EASTLAND, Mr. TALMADGE, Mr. AIKEN, Mr. YOUNG of North Dakota, and Mr. COOPER conferees on the part of the Senate.

Mr. WILLIAMS of Delaware. Mr. President, my position on the legislation is very clear. I regret that the bill has been passed. Nevertheless, the Senate did adopt one very important amendment which would provide limitations on such subsidy payments. To the Senator from Delaware this is a very important amendment and as far as I can recall, this establishes an important precedent.

Therefore, may I have assurance that I shall be notified when the conference report is returned to the Senate?

Mr. BASS. I should have to inform the Senator that he would have to receive that assurance from the majority leader. I am not one of the conferees.

Mr. WILLIAMS of Delaware. Then, may I have it understood with the leadership that when the conference report is returned to the Senate I shall be notified in advance?

Mr. MANSFIELD. Certainly.

Mr. BASS. Although I am not on the the conference committee, as I have stated here many times today this is an emergency piece of legislation. I hope that the Senator will be advised. If possible, I hope that the conference committee can meet on tomorrow so that the legislation can be speedily enacted into law.

Mr. WILLIAMS of Delaware. If the conferees should decide to reduce the \$10,000 to \$5,000 I shall support the conference report because it would be a step in the right direction. However, those who are interested in the legislation may be well advised to see that the amendment is retained.

Mr. BASS. I have no advice to give to the Senator from Delaware on that.

FAIR PACKAGING AND LABELING ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1151, S. 985, that it be laid before the Senate and again made the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Fair Packaging and Labeling Act".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate price comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any persons (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of

regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act and which shall provide that:

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor; and

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label; and

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) If expressed in terms of weight or fluid volume, on any package of a consumer commodity containing less than four pounds or one gallon, shall be expressed in ounces or in whole units of pounds, pints, or quarts (avoirdupois or liquid, whichever may be appropriate);

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in non-deceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the

requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate price comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterizing the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents; and

(4) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug and Cosmetic Act, as amended) that information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed upon packages containing that commodity.

(d) Whenever the promulgating authority determines, after a hearing conducted in compliance with section 7 of the Administrative Procedure Act, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall—

(1) publish such determination in the Federal Register; and

(2) promulgate, subject to the provisions of subsections (e), (f), and (g), regulations effective to establish reasonable weights or quantities, and fractions or multiple thereof, in which any such consumer commodity shall be distributed for retail sale.

(e) At any time within sixty days after the publication of any determination pursuant to subsection (d)(1) as to any consumer commodity, any producer or distributor affected may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity under the procedures for the development of voluntary product standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, distributor, and consumer representation. Upon the filing of any such request the Secretary of Commerce shall transmit notice thereof to the authority which has caused notice of such determination to be published

(f) No regulation promulgated pursuant to subsection (d)(2) with respect to any consumer commodity may—

(1) vary from any voluntary product standard in effect with respect to that consumer commodity which was published—

(A) before the publication of any determination with respect to that consumer commodity pursuant to subsection (d)(1);

(B) within one year after the filing pursuant to this section of a request for the development of a voluntary product standard with respect to that consumer commodity; or

(C) within such period of time (not exceeding eighteen months after the filing of such request) as the promulgating authority may deem proper upon a certification by the Secretary of Commerce that such a voluntary product standard with respect to that consumer commodity is under active consideration and that there are presently grounds for belief that such a standard for that commodity will be published within a reasonable period of time;

(2) establish any weight or measure in any amount less than two ounces;

(3) preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related commodities of varying densities, except to the extent that it is determined that the continued use of such package for such purpose is likely to deceive consumers; or

(4) preclude the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as to the effective date of the Act.

(g) In the promulgation of regulations under subsection (d)(2) of this section, due regard shall be given to the probable effect of such regulations upon—

(1) the cost of the packaging of the commodities affected;

(2) the availability of any commodity in a reasonable range of package sizes to serve consumer convenience;

(3) the materials used for the packaging of the affected commodities;

(4) the weights and measures customarily used in the packaging of the affected commodities;

(5) competition between containers made of different types of packaging material.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or posses-

sion of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(e) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under the provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purpose of this Act—

(a) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity, of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such

consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of sections 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b) (1), 355, 356, 357);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-2571).

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity;

(d) The term "person" includes any firm, corporation, or association;

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or territory and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries; and

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug and Cosmetic Act; or

(c) the Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which differs from the requirements of

section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on the first day of the sixth month beginning after the date of its enactment: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic), and the Commission (with respect to any other consumer commodity) may by regulation postpone for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that amendment No. 572 to be offered by the distinguished senior Senator from New Hampshire [Mr. COTTON] be voted on at 4 o'clock on Monday afternoon next.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That on Monday, June 6, 1966, the Senate will proceed to vote at 4 o'clock p.m. on the amendment offered by the Senator from New Hampshire [Mr. COTTON], No. 572 to S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. COTTON. Mr. President, I should like to inquire from the majority leader if my understanding is correct that he intends to ask that we will convene at 12 o'clock on Monday and that there will be no morning hour on Monday?

Mr. MANSFIELD. The Senator is correct.

Mr. COTTON. Mr. President, I desire to call up my amendment so that it may be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Beginning on page 20, line 8, strike out all of subsection (d), (e), (f), and (g) of section 5, down to and including line 6 on page 23.

Mr. COTTON. Mr. President, in view of the agreement that the vote on my amendment will be had at 4 o'clock on Monday I desired to call up my amendment now and have it made the pending business. However, if on tomorrow or at any other intervening time, any Senator has an amendment that he desires to offer, I should be very happy to consent that my amendment be temporarily laid aside while the other business is taken care of.

TUALATIN FEDERAL RECLAMATION PROJECT, OREGON

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 254) to authorize the Secretary of the Interior to construct, operate, and maintain the Tualatin Federal reclamation project, Oregon, and for other purposes, which

was, to strike out all after the enacting clause and insert:

That in order to supply irrigation water to approximately seventeen thousand acres of land in the Tualatin River Valley, Oregon, to develop municipal and industrial water supplies, to provide facilities for river regulation and control of floods, to enhance recreation opportunities, to provide for the conservation and development of fish and wildlife resources, and for other purposes, the Secretary of the Interior is authorized to construct, operate, and maintain the Tualatin Federal reclamation project in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto). The principal features of said project shall be a dam and reservoir on Scoggin Creek, canals, pumping plants and water distribution facilities.

SEC. 2. Irrigation repayment contracts shall provide, with respect to any contract unit, for repayment of the irrigation construction costs assigned for repayment to the irrigators over a period of not more than fifty years exclusive of any development period authorized by law. Construction costs allocated to irrigation beyond the ability of the irrigators to repay during the repayment period shall be returned to the reclamation fund within said repayment period from revenues derived by the Secretary from the disposition of power marketed through the Bonneville Power Administration. Power and energy required for irrigation water pumping for the Tualatin project shall be made available by the Secretary from the Federal Columbia River power system at charges determined by him.

SEC. 3. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Tualatin project shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213).

SEC. 4. (a) Costs of the project allocated to municipal water supply shall be repayable, with interest, by the municipal water users over a period of not more than fifty years from the date that water is first delivered for that purpose, pursuant to contracts with municipal corporations, or other organizations, as defined in section 2(g) of the Reclamation Project Act of 1939 (53 Stat. 1187). Contracts may be entered into with water users' organizations pursuant to the provisions of this Act without regard to the last sentence of subsection 9(c) of the Reclamation Project Act of 1939, supra.

(b) The interest rate used for computing interest during construction and interest on the unpaid balance of the costs of the project allocated to municipal water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such interest rate to the nearest multiple of one-eighth of 1 per centum if the computed average interest rate is not a multiple of one-eighth of 1 per centum.

(c) Costs of the project allocated to highway transportation shall be nonreimbursable in accordance with section 208 of the Flood Control Act of 1962 (76 Stat. 1196).

SEC. 5. For a period of ten years from the date of enactment of this Act, no water shall be delivered to any water user on the Tualatin project for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing

year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 301(b) (10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 6. There is hereby authorized to be appropriated for the construction of the Tualatin project the sum of \$20,900,000 (January 1965 prices) plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved therein, and, in addition thereto, such sums as may be required to operate and maintain said project.

Mr. JACKSON. Mr. President, I move that the Senate disagree with the House amendment and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JACKSON, Mr. ANDERSON, Mr. CHURCH, Mr. KUCHEL, and Mr. JORDAN of Idaho conferees on the part of the Senate.

MARITIME ADMINISTRATION

Mr. BARTLETT. Mr. President, on May 18 Paul Hall, president of the Seafarers International Union of North America, appeared before the Senate Government Operations Committee on legislation to create a Department of Transportation. He presented the position of the joint AFL-CIO maritime unions in urging that the Maritime Administration be made an independent agency.

Mr. Hall spoke for a large segment of the American merchant marine, and his ideas merit careful consideration by everyone interested in the preservation of our fourth arm of defense. I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

My name is Paul Hall. I am the president of the Seafarers International Union of North America but the views I am about to express today, with respect to the proposed Department of Transportation, represent the views of all AFL-CIO maritime unions affiliated with the AFL-CIO Maritime Trades Department, the AFL-CIO Metal Trades Department and the AFL-CIO Maritime Committee.

I am therefore here today as a spokesman for virtually all of American maritime labor—both licensed and unlicensed.

Moreover, I might all that other AFL-CIO transportation unions in the airline, railroad and highway carrier fields have endorsed the views I am about to present, and have pledged us their support, just as we in turn have pledged our support to their respective positions regarding the Department of Transportation.

I might also add that certain of our views, as I will note later in this presentation, have been endorsed by the full AFL-CIO, so that with respect to these views we carry into these hearings the support of the entire organized American labor movement.

Now with respect to the Department of Transportation, I shall not attempt here to discuss all of the proposals made by the President in the Transportation Message which he sent to the Congress last March 2nd.

Discussions of those proposals which relate to other modes of transportation—air, rail and highway—I shall leave to the appropriate persons in those fields, and I shall confine my discussion to those proposals which relate directly to the maritime industry.

To begin with, I might note that the President's Transportation Message, while calling for the inclusion of the Maritime Administration in the Department of Transportation, and while setting forth a number of general proposals for improving water transportation, leaves unanswered many basic questions regarding maritime's position in the proposed department.

I might also note that the identical legislation which has been introduced in the Senate and House to implement the President's recommendations—S. 3010 by Senator MAGNUSON and H.R. 13200 by Congressman HOLIFIELD—similarly leave unanswered the same basic questions.

Neither the Transportation Message, in fact, nor the legislation which is now being considered by this committee, is specific about maritime's position in the new department, about the functions and duties of the Maritime Administration within the department, or about what future Federal maritime policy will be—a matter with which maritime labor is extremely concerned.

In fact, if one studies the proposed structure of the Department of Transportation, as reported by the *Congressional Quarterly* of March 25, 1966, and appended here as *Exhibit No. 1*, one will note that all we really have here is a brief sketch of a new and mammoth Federal department within which the present Maritime Administration could very easily become lost in a bureaucratic maze.

The chart indicates, for example, that the proposed department will have a Secretary, an Undersecretary, four Assistant Secretaries (one of whom will be an Assistant Secretary for Administration) and a General Counsel. But the functions of these officers are not delineated, nor are the lines of communication and responsibility between them and maritime clearly drawn.

What, in other words, is the channel of communication between maritime, at the bottom of this structure, and the Assistant Secretaries, Undersecretary, Secretary, and finally the President himself, at the top? Neither the chart, the Transportation Message nor the proposed legislation makes this clear.

Nor do either the Transportation Message or proposed legislation make clear a number of other matters. The President stated in his Transportation Message that the proposed department would embrace the Maritime Administration, but there is no clear indication in either the message or the legislation as to how the Maritime Administration will be constituted, what policies it will promote, or how much independence it will have in the promotion of these policies.

Certainly, with regard to policy, all of our past experience has taught us that whenever jurisdiction over maritime affairs has been delegated to Federal departments or agencies whose primary concern has not been the merchant marine, the merchant marine has suffered, and with it the nation which should be the beneficiary of the contributions which the merchant marine can make to its commerce and security.

This has been true whenever maritime affairs have been in the hands of the Department of Agriculture, the Department of Defense, the Department of State or other Federal Departments and agencies. It is true in the present instance, in which the Maritime Administration occupies a subordinate position within the Department of Commerce, and there is every reason to believe it would be true in the Department of Transportation, particularly since the role of the Maritime Administration is not clearly

defined, nor are the lines of responsibility clearly drawn.

In light of this we feel very strongly that maritime would be completely swallowed up within the mammoth, complex structure of the proposed department, that maritime concerns would be shunted aside or pigeonholed in a bureaucratic web, and that no proper representation would be given to maritime's interests which in many respects are far different from those of other forms of transportation.

The merchant marine, it must always be remembered, differs from other modes of transportation—except possibly the airlines—in that its operations are international in scope. In a sense, it is a political instrument, as well as an economic instrument and an instrument of our national defense, and each of these roles must be given its full share of consideration in the determination of maritime policy and the administration of maritime affairs.

In the proposed Department of Transportation, we strongly feel, none of these roles of the merchant marine would be given their full and proper consideration, and neither the best interests of the merchant marine nor the nation would be served.

The merchant marine, we believe, would have a far better chance for survival and growth if its affairs were under the jurisdiction of a Federal agency whose sole concern was maritime.

For this reason, we strongly oppose inclusion of the Maritime Administration in the Department of Transportation and urge that the Maritime Administration be removed from the Department of Commerce and reestablishment as an entirely independent and autonomous agency. And in this position, I might note, we are not only being supported by other AFL-CIO transportation unions, but by the entire AFL-CIO which endorsed the concept of an independent Maritime Administration in Resolution No. 217 unanimously adopted at the AFL-CIO convention in San Francisco in December of last year, and appended as *Exhibit No. 2*.

Our reasons for favoring an independent and autonomous Maritime Administration are as follows:

1. The Maritime Administration now has no independent power and must compete with other programs administered by the Department of Commerce. Thus, the Merchant Marine Act of 1936 has not been properly administered and the inevitable result has been the decline of the American merchant marine. Putting Marad in a Department of Transportation would not alter this situation.

2. The creation of an independent agency to administer this country's maritime laws would focus greater attention on our decaying fleet, and the ultimate objective of revitalizing the industry and enabling the United States to meet its foreign commerce needs and defense commitments pursuant to the policy set forth in the Merchant Marine Act of 1936.

3. The present structure of the agency constitutes an inconsistency in government organization since, whereas the Federal Aviation Act of 1958 created the Federal Aviation Agency, thus giving independent status to aviation, the promotional activities of the merchant marine—as well as administration of the subsidy program—were buried within the Department of Commerce by Reorganization Plan No. 7 of 1961. Also, subsidy functions of the Civil Aeronautics Board are not to be included in the new Department of Transportation but the maritime subsidy functions will be included.

4. The Merchant Marine Act of 1936 provided for a five-man independent Maritime Commission, to be appointed by the President with the consent of the Senate. The Commission functioned independently and conducted a survey which resulted in a long-

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and fresh-water commercial fishery resources of the U. S., its territories, and possessions (S. Rept. 1202). p. 11472

16. RESEARCH. Agreed to the conference report on S. 944, the oceanographic research bill. This bill will now be sent to the President. pp. 11490-2
17. ELECTRIFICATION. Concurred in House amendment to S. 1761, to authorize the Secretary of the Interior to construct, operate, and maintain a third power-plant at the Grand Coulee Dam, Columbia Basin project, Wash. This bill will now be sent to the President. pp. 11534-6
Numerous cosponsors were added to S. 3337, an REA financing bill. p. 11480
18. PACKAGING; LABELING. Continued debate on S. 985, the fair packaging and labeling bill. pp. 11503-9, 11514, 11536-9, 11543-5
Sen. Cotton inserted an article, "Packaging: A Giant Matures." p. 11496
19. FOOD ADDITIVES. The Labor and Public Welfare Committee voted to report (but did not actually report) H. R. 7042, amended, relating to the use of additives in manufacturing candy. p. D481
20. WATER. Received from the State Dept. a proposed bill to enable the U. S. to organize and hold an International Conference on Water for Peace in the U. S. in 1967; to Foreign Relations Committee. p. 11472
Sen. Magnuson submitted an amendment to S. 2947, to improve certain programs under the Federal Water Pollution Control Act. He stated that the effect of his amendment would be that those cities that have already started such projects will be made eligible for Federal aid. p. 11480
21. LOANS. Received a GAO report "on the review of efforts to have borrowers re-finance their government loans when private or cooperative credit becomes available, Farmers Home Administration." p. 11472
22. GOVERNMENT OPERATIONS. Received a GAO report on the findings and recommendations for improving government operations. p. 11472
23. FOREIGN TRADE. Received from AID a copy of its reply to a report of the Comptroller General on the effect of foreign currency sales on commercial sales of wheat to UAR under Public Law 480. p. 11472
24. SALINE WATER RESEARCH. Received from Interior a report on the desalting of sea and brackish water, 1965. p. 11472
25. NATURAL RESOURCES. Sen. Monroney commended and inserted an address by Sen. Harris, "The Coming Challenges of the River Basins." pp. 11486-88
26. DISASTER RELIEF. Sen. Bayh urged consideration of his bill to provide additional assistance for areas suffering a major disaster and inserted a supporting editorial. p. 11500
27. SCHOOL MILK. Sen. Proxmire stated that the "administration's proposal to provide the benefits of the special milk program...to only the needy and those in schools without a lunch program would bypass the overwhelming of our needy youngsters." pp. 11500-1

28. RESEARCH ANIMALS. Sen. Clark commended the Monroney amendment to S. 2322, the animal welfare bill, stated that it would restore to the bill the provision for inspection of care and housing for research animals in the lab prior to the time of experimentation, and inserted editorials on the subject. pp. 11539-41

29. ADJOURNED until Mon., June 6. p. 11548

ITEMS IN APPENDIX

30. PARTICIPATION SALES. Rep. Adair inserted an article, "L. B. J. Loan Pool Plan Unwise." p. A3003
31. WORLD FOOD. Extension of remarks of Rep. Fuqua commending and inserting FAS Administrator Toanes' speech, "The World Food Problem and Its Implications for U. S. Agriculture." pp. A3005-7
32. RESEARCH ANIMALS. Rep. Rogers inserted an article which supports the bill to provide humane treatment of laboratory animals. pp. A3007-8
33. FOOD PRICES. Extension of remarks of Rep. Olson, Minn., stating that the "cost of the weekly food basket is expected to remain constant in the face of other living costs whose increases are not so evident", and inserting an article, "Food Prices In Perspective." pp. A3011-2

BILLS INTRODUCED

34. IMPORTS. H. R. 15437, by Rep. Langen, and H. R. 15442, by Rep. Sweeney, to regulate imports of milk and dairy products; to Ways and Means Committee. Remarks of Rep. Langen pp. 11601
35. EDUCATION. H. R. 15444, by Rep. Meeds, and H. R. 15445, by Rep. Perkins, to amend the Vocational Education Act of 1963; to Education and Labor Committee.
36. PUBLIC WORKS. H. R. 15438, by Rep. Multer, to amend the Public Works and Economic Development Act of 1965 as it relates to those areas to be designated as redevelopment areas; to Public Works Committee.
37. POVERTY. H. R. 15439, by Rep. Rostenkowski, providing a poverty area amendment; to Public Works Committee.
38. TOBACCO. H. J. Res. 1157, by Rep. Tuten, to amend section 316 of the Agricultural Adjustment Act of 1938 to extend the time by which a lease transferring a tobacco acreage allotment may be filed; to Agriculture Committee.
39. INFORMATION. H. R. 15417, by Rep. Curtis, to amend section 161 of the Revised Statutes with respect to the authority of Federal officers and agencies to withhold information and limit the availability of records; to Government Operations Committee. Remarks of author p. 11598.
40. CONTRACTS. S 3445, by Sen. Case, to amend the Davis-Bacon Act in order to require compliance with the provisions thereof in the performance of certain agreements; to Labor and Public Welfare Committee.

We know there is a calculated and deliberate attempt by some groups to inflame hostility against law enforcement by charging "police brutality" without cause. To a large degree they have succeeded. The term is bandied about in all media of communication without serious consideration as to its true meaning or its harmful effect on a profession which is charged with enforcing the basic rules of civilized living.

I agree with a growing number of responsible news editors, public officials, and law-abiding citizens that it is high time to get this "pet slogan" into a better perspective. We do not deny there have been instances of misuse of force by enforcement officers, but such incidents are not as prevalent as the public has been led to believe. A general and accepted principle of the law has been that an officer may use such force as is necessary to make lawful arrests, protect his life, and perform other specific duties. Frequently, however, the choice is not his to make; he has to use force or be maimed or killed and have the rights of all the people trampled by those who have no respect for law or due process. Even then, his best efforts often are not enough, as evidenced by the appalling number of officers assaulted and killed each year.

Policemen have the same basic rights as others. There is no reason why they should be singled out for ridicule by invalid blanket accusations. The public, the press, and law enforcement itself should launch a concerted drive to stop the semantic indictment of police. Allegations and incidents should be reported and described in realistic, impartial, and truthful terms. If an officer is assaulted while making an arrest and uses undue force to subdue the person, then call it "undue force." If an officer uses profane language to a citizen, then describe it as profane language. If an officer is thought to be biased or prejudiced in his treatment of groups or individuals, then the complaint should so state. But the constant cry of "police brutality" as a catch phrase, exploited and used as camouflage for illegal conduct, is dead wrong. It is a stigmatization of police by rote.

REMARKS TO HIGH SCHOOL GRADUATES

Mr. BYRD of West Virginia. Mr. President, each year I endeavor to speak to various groups of West Virginia's high school graduates. It is my personally accepted task to encourage as many of these young men and women as possible to realize the value of continuing their formal education and the importance of establishing a firm basis for future careers and future service as productive citizens of our Republic.

It is not possible, however, to speak at more than a few of the commencement exercises each year, so I recently prepared a radio program to be broadcast over various radio stations in West Virginia, in the hope of reaching a wider range of listening high school graduates.

I ask unanimous consent that a transcript of my June 1, 1966, remarks be printed in the RECORD at this point.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

RADIO SCRIPT, JUNE 1, 1966

My fellow West Virginians, this is United States Senator ROBERT C. BYRD speaking to you from the Nation's Capitol.

My message today is a personal one for the young men and women graduating this year from the high schools in West Virginia. I

appeal to you, as individuals, to accept as your first task the continuation of your education. Knowledge, secured from a continuing education and constantly disciplined self effort, is the weapon that will enable you, and our nation, to best survive and prosper in this space age.

If you have financial problems which complicate your attending college, investigate the benefits of the Higher Education Act passed by the Congress to assist capable high school graduates in need of financial help for college attendance. Your local school authorities can guide you in securing more detailed information on the opportunities offered.

But, in any event, if you are unable immediately to continue your education at a higher level, persevere in your efforts, for there is a high correlation between investment in education and the prosperity of individuals and nations.

It is a matter of statistical record that countries which have citizens who spend a lot on education have a higher per capita gross national product. And the monetary returns on a college education today for the average individual American are estimated as running much higher, in terms of income earned during the first 25 years after age 21, than the earnings of the average 8th grade or high school graduate.

Importantly, too, you need early to recognize that education is a lifelong process. In today's world—with its many problems—all of us must constantly endeavor to extend our education to remain abreast of developments. But hand-in-hand with your educational efforts must go an adherence to the principles of Christian living upon which our society was founded—those principles which enabled the United States to develop as a stable, industrious, moral, and great Republic. A respect for the law, obedience to its tenets, and an acceptance of the responsibility to uphold the law and to preserve order—all of these are basic to your character development, and they are a vital element in forming a sound foundation for future success.

It has been said that knowledge is power; but more than mere intellectual resources must be developed by each individual. Moral and spiritual resources must be tapped to preserve our American beliefs in human dignity and freedom. You will need more and better education to prepare yourselves for the diversity, the complexity, and the rapid change of your unknown future, for you cannot predict with certainty what your needs will be. Only by deep morality and steadfast judgment may you apply with wisdom the knowledge which you gain.

And as you build your career, you will need to recognize and value the dignity of hard work, both because of the concrete material results which it will bring to you and for the personal satisfaction that comes with having fully committed your mental and physical capabilities toward accomplishing progressively demanding tasks.

Benjamin Franklin's father held up to his son this proverb: "Seest thou a man diligent in his business. He shall stand before kings."

I have great faith in you young West Virginians, as I do in the ability of our society to master the challenges of the future. I believe you will work and study and grow and that your lives will be successful and meaningful and will sustain our republic, our ideals, and our American freedom.

This is United States Senator, ROBERT C. BYRD saying thank you for listening today.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

FAIR PACKAGING AND LABELING ACT

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which is S. 985.

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. MAGNUSON. Mr. President, the pending bill is the Fair Packaging and Labeling Act (S. 985). As chairman of the Commerce Committee and one of the authors of the pending measure, I expect to take an active part in the debate on many features of the bill. This is probably one of the most important consumer bills to come before the Senate at this session of Congress, if not the most important. Because the bill is complex and involves a broad field, it may be of assistance to Senators, before we proceed with the amendments and debate next Monday, Tuesday, or Wednesday, to make a formal statement setting forth my views on some features and sections of the bill.

Mr. President, I am convinced that the fair packaging and labeling bill, which the Committee on Commerce has reported to the Senate, will serve the compelling needs of the consumer, while preserving the basic freedoms of the American marketplace.

The Commerce Committee takes just pride in this legislation. It represents painstaking and extended effort by the committee, and I am hopeful that the product of that effort will be legislation which marks the 89th Congress as history's "Consumer Congress."

S. 985 represents a significant step beyond the traditional policing of intentionally deceptive or fraudulent acts. It is a reflection of the changing relationship between manufacturer and consumer which has marked the technological upheaval in food processing, packaging, and distribution of recent decades.

More than 8,000 promotionally designed packages now compete for the consumer's dollar, where 20 years ago only 1,500 confronted him. In the interim the package on the supermarket shelf has acquired, by default, the informational functions formerly performed by the friendly—or at least familiar—retail clerk. But this informational function has come into increasing conflict with the package's role as its own most enthusiastic advertisement and promotional device. And information has too often suffered at the expense of promotion.

If the consumer is to be capable of making informed choices in today's supermarket, then it is necessary not only to protect him from deliberate frauds and deceptions but to require affirmatively that the relevant information be presented on the package in a coherent and meaningful form and with reasonable uniformity. Moreover, if the consumer is to be able to perform his primary mar-

ket function of rewarding the efficient producer, then competing commodities must be packaged in such a way as to facilitate clear and easily computed price comparisons. The committee has no desire to superimpose its judgment as to the quality of competing products upon the judgment of the marketplace but, before the consumer can make a meaningful judgment with respect to value, he must first have the opportunity to compare prices.

The Commerce Committee held 10 days of hearings on S. 985, and has before it five volumes of testimony taken in 1961, 1962, 1963, and 1964 by the Antitrust and Monopoly Subcommittee, on packaging and labeling practices in the marketing of consumer commodities.

Out of all these hearings there has emerged a pattern of marketing practices which the committee believes have substantially impaired the fair and efficient functioning of consumer commodity marketing. In particular, the hearings identified certain undesirable conditions and practices to which this legislation is principally directed. They include:

First. Confusing, inconspicuous, incomplete or nonexistent quantity of contents statements on labels.

Second. Lack of uniformity in the designation of units of weight or fluid volume. Thus, a package may be labeled "1 quart 1 ounce" or "33 ounces"; "1 pint," "16 ounces," or "1 half-quart."

Third. The use of qualifying adjectives to exaggerate the quantity of contents; such as "giant" or "jumbo" quart.

Fourth. The use of size characterizations; such as "small," "medium," and "large," and "servings" designations, without meaningful standards of reference.

Fifth. The imprinting on the package by the manufacturer of purported price information implying retail bargains such as "cents off" or "economy size" representations. In placing such representations on his package, the manufacturer is promising the consumer a price advantage which he cannot fulfill, for it is the retailer and not the manufacturer who determines the price which the consumer pays.

Sixth. Insufficient or nonexistent ingredient information, such as the failure to disclose the percentages of costly and inexpensive ingredients or active and inert ingredients.

And seventh, the proliferation of awkward and fractional weights and quantities, in which many consumer commodities are being marketed. For example, potato chips have recently been marketed in 71 different quantities under 3½ pounds. And instant coffee is presently being sold in 2, 2½, 4, 5, 6, 7, 8, 9, 10 ounces, and so forth, jars. The consumer is thus compelled to divide the retail price by the number of ounces in each package to arrive at the unit costs by which the packages can be compared.

Testimony before the committee established that present law is inadequate or imprecise to a degree that permits these practices and conditions to flourish unabated. Present law deals primarily with deceptive or fraudulent practices, which are generally subject to correction only

through laborious case-by-case prosecution.

The committee was much impressed with the opportunities for cooperative voluntary standardization inherent in the voluntary standards procedures of the Department of Commerce. The Department's voluntary standardization program was established by former President Herbert Hoover in 1926 in his then capacity as Secretary of Commerce and the Department has since participated in the establishment, through industry cooperation, of some 500 standards. The voluntary standardization of can sizes through the Department's procedures is probably the outstanding instance of such successful cooperative effort involving consumer commodities.

The uniform marketing of liquor in pints, fifths, and quarts also supplied the committee with a concrete example of weight standardization which has apparently not inhibited innovation in the design of attractive and imaginative bottles of widely varying shapes, sizes, and dimensions.

The committee held seven executive sessions to consider S. 985. During the course of committee deliberations, the bill passed through five formal revisions represented by committee prints. Each provision of the proposed bill was subjected to the closest scrutiny in order that the committee might formulate procedures adequate to protect the consumer, with minimal interference in the marketing process. The committee was particularly concerned that legislation not unduly hamper innovation and progress in the marketing of consumer goods. Procedural protection, substantive guidelines, and necessary exceptions were all adopted to meet the fears and concerns expressed by the affected industries.

REGULATORY FRAMEWORK

The legislation seeks to provide a regulatory framework within which ground rules can be established, in the tradition of the latter day labeling laws, such as the Fur Products Labeling Act, the Flammable Fabrics Act, and the Textile Fiber Products Identification Act.

The principal regulatory features of the bill are those generally referred to as the "mandatory" provisions—designed to apply across-the-board to all packaged consumer commodities—and the "discretionary" provisions, authorizing regulations to be promulgated on a commodity-by-commodity basis only after the necessity for regulation has been established.

The regulatory responsibility is divided between the Secretary of Health, Education, and Welfare and the Federal Trade Commission, preserving the historical division of responsibility between the Food and Drug Administration of Health, Education, and Welfare and the Federal Trade Commission. The Department of Health, Education, and Welfare is thus given jurisdiction over the packaging and labeling of all consumer commodities which are food, drugs, devices, or cosmetics within the scope of the Federal Food, Drug, and Cosmetic Act, while the FTC is granted jurisdiction over all other consumer commodities.

A food, drug, device or cosmetic which

violates any regulation promulgated under the act is to be deemed "misbranded" within the meaning of the Federal Food, Drug, and Cosmetic Act, and is made subject to the enforcement provisions of that act, other than the criminal penalties. Any such commodity would thus be subject to injunction or seizure. Other consumer commodities violations would constitute "unfair or deceptive acts or practices in commerce" in violation of the Federal Trade Commission Act. Such violations would be subject to the Commission's authority to issue cease and desist orders.

In encouraging the voluntary development of weights and quantities standards, the bill also utilizes the voluntary product standards procedures of the Department of Commerce and, in regulating imports, grants authority to the Secretary of the Treasury.

With respect to all regulations to be issued, the bill incorporates the procedural safeguards of the Federal Food, Drug, and Cosmetic Act, which provide assurance of adequate notice, ample opportunity for hearing, and recourse to judicial review.

It is, of course, intended that no regulation under the mandatory or discretionary sections of the bill should take effect until the manufacturers involved have had full opportunity to effect any necessary packaging or labeling changes, and to allow reasonable time for the disposal of existing stocks and inventories. The bill also provides that no regulation adopted under the act shall preclude the continued use of returnable or reusable glass containers for beverages which were in inventory or circulating "with the trade" as of the effective date of the act. This would insure that returnable bottles actually in circulation on the effective date of the act could continue in circulation throughout their life cycle.

DEFINITION OF "CONSUMER COMMODITY"

The bill is generally concerned with those items customarily found in the supermarket. These include food, drugs, devices and cosmetics as defined by the Federal Food, Drug and Cosmetic Act, but not prescription drugs.

Also included are those expendable commodities used for personal care and household services.

The bill is not intended to cover durable articles or commodities; textiles or items of apparel; any household appliance, equipment or furnishings, including feather and down-filled products, synthetic-filled bed pillows, mattress pads and patchwork quilts, comforters and decorative curtains; bottled gas for heating or cooking purposes; paints and kindred products; flowers, fertilizer and fertilizer materials, plants or shrubs, garden and lawn supplies; pet care supplies; stationery and writing supplies, gift wraps, fountain pens, mechanical pencils, and kindred products.

The bill also excludes such commodities as meat, poultry; tobacco; pesticides; alcoholic beverages, prescription drugs and seeds, which are already subject to Federal regulation.

PERSONS AFFECTED

The legislation is intended to affect only those persons who package products

and distribute such packages in commerce. Wholesalers and retailers are exempt except to the extent that they either: First, engage in the packaging or labeling of commodities themselves; or second, prescribe or specify the manner in which such commodities are to be packaged or labeled.

MANDATORY PROVISIONS

The mandatory provisions are found in section 4. The first 3—subsections (a) (1), (a) (2), and (a) (3)—direct the promulgating authorities to establish net quantity of contents labeling regulations effective to insure:

That the label identify the commodity and the name and place of business of the manufacturer, packer, or distributor—(a) (1).

That the net quantity of contents, in terms of weight, measure, or numerical count, be separately and accurately stated in a uniform location upon the principal display panel of the label. The "principal display panel" is defined as that part of the label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions—(a) (2).

That the net quantity of contents of any packaged consumer commodity which contains less than 4 pounds or 1 gallon shall be expressed in ounces, or fractions thereof, or in whole units of pounds, pints, or quarts. This requirement would supersede any Federal or State regulation requiring the net quantity of contents to be stated in any different form; but would not preclude the manufacturer from expressing the net quantity in alternate form in a supplemental statement elsewhere on the label—(a) (3) (A).

That the net quantity of contents statement appear in conspicuous and easily legible type in distinct contrast by typography, layout, color, embossing or molding with other matter on the package—(a) (3) (B).

That the net quantity of contents statement contain letters or numerals in a type size, established by the promulgating authority in relationship to the area of the principal display panel of the package, which shall be uniform for all packages of substantially the same size—(a) (3) (C).

That the separate net quantity of contents statement be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed—(a) (3) (D).

Subsection 4(b) prohibits the qualification of the separate net quantity statement by any modifying words or phrases. However, a supplemental statement of the net quantity of contents set apart from the separate net quantity statement, required by the bill, may be modified by nondeceptive words or phrases, so long as such words or phrases do not tend to exaggerate the amount of the commodity contained in the package. For example, where a package contains a separate net quantity statement in conformity with promulgated regulations; such as "6 ounces net weight," the package could also contain in a supplemental statement, apart from the required net

quantity statement, the phrase "6 ounce of fast acting X detergent" but could not contain the statement "6 jumbo ounces of X detergent" at any place on the package.

Subsection 5(b) authorizes exceptions to the mandatory requirements upon a finding by the promulgating authority, with respect to any consumer commodity, that full compliance with the requirements is either impracticable or unnecessary for the adequate protection of consumers. A small commodity, for example, may of necessity be so packaged as to render impracticable principal display panel net quantity of contents designation.

DISCRETIONARY SECTIONS

Subsection 5(c) authorizes the promulgating authorities to issue commodity-by-commodity regulations, governing four categories of labeling practice, where necessary to prevent the deception of consumers or to facilitate price comparisons.

Subsection 5(c) (1) authorizes the establishment of standards for label characterizations of size, such as "small," "medium," and "large." For example, where the promulgating authority found that there was significant variation in the use of such characterizations among competing products, the authority could establish uniform standards for "small," "medium," and "large" packages in that commodity line.

Subsection 5(c) (2) authorizes the establishment of standards for "servings." Thus, where the promulgating authority determined that one manufacturer's "2-servings" package was the equivalent of another's "3-servings" or "4-servings" package, the authority could set standards for servings in that commodity line, assuring a meaningful standard of comparison.

Subsection 5(c) (3) authorizes the regulation of printed label representations that a consumer commodity is being offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers by reason of the size of the package or the quantity of its contents. This provision is primarily directed at "cents off" label representation placed on the package by the manufacturer and at such label designations as "economy" size. While the committee was of the opinion that these practices should be prohibited where abused, the agencies are granted a measure of flexibility in establishing regulations for the utilization of such promotional techniques in a nondeceptive manner. Nothing in this subsection would inhibit the retailer's right to set retail prices or to make sale offers.

Subsection 5(c) (4) authorizes the agencies to require that information with respect to the ingredients and composition of any consumer commodity be placed on packages containing that commodity. Here the committee is primarily concerned with the ability of consumers to make price comparisons among competing products with varying proportions of active or costly ingredients.

Thus the agencies may determine that in a given commodity line, it is necessary

for the package to list those ingredients, including proportions or percentages, which may be material to the consumer's price comparisons among competing products. Regulations promulgated under this section must be consistent with the requirements of the Federal Food, Drug, and Cosmetic Act and may not require the disclosure of information concerning proprietary trade secrets.

Subsections 5 (d), (e), (f), and (g) establish procedures for the development of standards of weights or quantities for the retail distribution of consumer commodities, placing primary emphasis upon the voluntary product standards procedures of the Department of Commerce.

A weights or quantities standard proceeding is triggered by the determination of the promulgating authority—Department of Health, Education, and Welfare or Federal Trade Commission—after hearing, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of the consumer to make price per unit comparisons.

Within 60 days of the publication of such determination in the Federal Register, any affected producer or distributor may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity, in accordance with the voluntary product standards procedures established by the Secretary of Commerce.

The current voluntary product standards procedures, reproduced in an appendix to this report, provide for the establishment of a standard review committee made up of qualified representatives of producers, distributors and consumers or users, of the product for which the standard is sought and any other appropriate general interest groups.

The bill expressly requires that the voluntary product standards procedures provide "adequate manufacturer, distributor and consumer representation," as is presently required under these procedures. In selecting consumer representation, the Secretary may utilize the President's Committee on Consumer Interests and the Consumer Advisory Council, the Food and Drug Administration and the Federal Trade Commission, labor and consumer organizations, and also distinguished private citizens not affiliated with any affected industry.

The committee reviews proposed standards and, upon a vote of three-fourths of all its members, may recommend acceptance of the standard. The Department thereupon distributes the proposed standard to a list of acceptors compiled by the Department, representative of producers, distributors, users, consumer, appropriate testing laboratories, and interested State and Federal agencies, and to any others upon request.

The Department analyzes responses from the list of acceptors and if such an analysis indicates that the recommended standard is supported by a consensus, then it will be published as a product standard by the Department. For the purpose of these procedures, consensus means general concurrence with no sub-

stantive objection deemed valid by the Department.

The procedures also provide for continuing review and for revision or amendment of any standard if "the standard or any part of it is being used to mislead consumers or is found to be against the best interest of consumers."

Where industry is unable to develop a voluntary product standard within 12 months from the filing of a request with the Secretary of Commerce for the development of such standard—or within 18 months, at the discretion of the promulgating authority, where the Secretary of Commerce certifies to the promulgating authority that there are grounds for belief that a voluntary product standard will be published within a reasonable time—the promulgating authority may, without redetermination of need, establish a standard of reasonable weights or quantities, and fractions or multiples thereof, in which the commodity shall be distributed for retail sale.

Where a voluntary product standard promulgated by the Secretary of Commerce pursuant to subsections 5(d) and 5(e) is in effect but is not being complied with, the promulgating authority may, again without redetermination of need, initiate a proceeding for the establishment of a mandatory standard. However, such standard may not vary, in substance, from the voluntary standard.

Subsection 5(f)(2) precludes the establishment of any weight or measure in any amount less than 2 ounces and subsection 5(f)(3) prohibits the establishment of any weight or quantity standard which would preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related products of varying densities, such as baby foods, except to the extent it is determined that the continued use of such package for such purpose is likely to deceive consumers.

Subsection 5(f)(d) provides that no weight or quantity standard established under the act shall have the effect of precluding the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the act. A large proportion of reusable bottles are designed for use in vending machines and the committee included this provision to assure the soft drink industry that nothing in the act could require the redesign of all vending machines.

Subsection 5(g) also requires that the promulgating authorities give due regard to the probable effect of regulations imposing weight or quantity standards upon:

First. The cost of the packaging of the products affected.

Second. The availability of any product in a reasonable range of package sizes to serve consumer convenience.

Third. The materials used for the packaging of the affected products.

Fourth. The weights and measures customarily used in the packaging of the affected products.

And fifth, competition between containers made of different types of packaging material.

STATE-FEDERAL RELATIONS

Section 9 authorizes the continued cooperation among States and Federal agencies in packaging and labeling regulation and specifically requires the Secretary of Commerce to submit regulations issued under this provision to the appropriate State officers and agencies. This section further requires that the Secretary of Commerce furnish to State officers and agencies information and assistance to promote to the greatest extent practicable uniformity in State and Federal regulation.

The services of the Secretary of Commerce are invoked here in order to further the cooperative program which has been successively coordinated by the Weights and Measures Division of the National Bureau of Standards and the National Conference on Weights and Measures, which has resulted in the passage of uniform weights and measures laws in many States.

Section 12 provides that regulations promulgated under the act shall supersede State law only to the extent that the States impose net quantity of contents labeling requirements which differ from requirements imposed under the terms of the act. The bill is not intended to limit the authority of the States to establish such packaging and labeling standards as they deem necessary in response to State and local needs.

COSTS

The Department of Health, Education, and Welfare estimates that the bill will require \$1.5 million in additional funds for the first year's administration, while the Federal Trade Commission estimates that its responsibilities under the bill will entail an additional \$250,000 per year. The Department of Commerce indicated that it was unable to forecast how many voluntary product standards procedures would be initiated as a result of the stimulus provided by the bill but informed the committee that the average cost per voluntary product standard proceeding was approximately \$20,000.

Mr. President, the Fair Packaging and Labeling Act is necessary and prudent legislation. I believe that no single piece of legislation in recent years has so engaged the interest and support of the American homemaker. And it is to the American homemaker and the needless harassments and confusions which she meets in trying to shop for her family needs that this legislation is directed.

Mr. COTTON. Mr. President, most Americans like the variety in today's supermarkets. American housewives are the envy of the world for the range of choices available at reasonable prices in the neighborhood supermarkets of our cities and towns.

Yet the Hart bill, S. 985, is deliberately designed to restrict some of those choices. It is based on the belief that there is too much variety. It would cure excessive variety with excessive Federal controls. These "denial of choice" provisions, found in subsections 5(d), (e), (f), and (g), must be stripped from the bill, as they would be by adoption of amendment No. 572, which I intend to call up.

However, before discussing the amendment and its impact, I want to make a few comments about the truth in labeling parts of this legislation. And I say "truth in labeling" deliberately and carefully.

Legislation requiring truth in packaging is not necessary. Clarity in labeling is what is actually needed.

New legislation is not required to guard against deception. There are laws on the statute books to accomplish this. The Federal Trade Commission and the Food and Drug Administration have ample authority to proceed against any practice either in advertising, packaging, or labeling that is deceptive or misleading. The large package only partly filled, misleading matter on the label are already provided against and hedged about with penalties.

Not only is there extensive Federal law, in the Food, Drug, and Cosmetic Act, the Federal Trade Commission Act, the Meat Inspection Act, and the Poultry Inspection Act, to prevent misleading and deceptive packaging practices, but there is also a vast body of related State laws.

All 50 States have acts which outlaw the mislabeling and misbranding of foods and cosmetics. While these laws vary in many respects, it is worth noting that 50 of them outlaw labels which are false or misleading; 35 of them have uniform, carefully worked out provisions against containers which are "so formed or filled as to be misleading." More than 30 States have adopted uniform provisions of law relating to the conspicuous placement of the required label information—and that information must include the name and address of the producer and the net contents of the package in clear and legible print.

It is also important to note that the States have been making important strides toward strengthening both their laws and their enforcement procedures. The National Conference on Weights and Measures, composed mainly of State officials charged with administering and enforcing State weights, measures, and labeling laws, is sponsored by the National Bureau of Standards. Through an effective spirit of cooperation, the National Conference has developed a comprehensive model State law on packaging and labeling and model State regulations for the implementation of the law. The model law has been adopted, at least in part, by nearly 40 States, and the model regulations have been adopted by a number of States. Both the model law and regulations have been annually reviewed and updated, so that new problems can be met as they emerge.

I mention these points in some detail because some of the discussion of the truth in packaging bill has tended to portray the housewife as a helpless, defenseless damsel who is totally at the mercy of the rapacious corporate packager. Nothing could be further from the truth, as the plethora of State and Federal laws amply demonstrates.

Furthermore, deceptive packaging is rare because the housewife has a big stick of her own—she can withhold her patronage. Businessmen know that a

housewife who is fooled once, will not buy his product twice. And no business in today's highly competitive consumer market can survive just on first-time sales. Satisfied customers who come back to a product time after time are the only sure means of success for a business today. That is why, for instance, that in 1962 when the Food and Drug Administration checked 15,000 items, it found only 23 on which it thought the required information was inconspicuous.

The authors and proponents of the bill have indicated that their aim is to save the customer from confusion.

There is clear evidence that most consumers, most housewives, are not at all confused in the supermarket. A comprehensive study of buying habits in supermarkets showed that the average shopper sweeps past the 8,000 products found in the store and buys 32 items in 15 to 18 minutes—hardly the pace of a confused shopper.

Nevertheless, if confusion is the target of the bill, this goal can be readily achieved.

What is actually needed to avoid confusion is a clear statement of the quantity of merchandise in each package or bottle in large type at the same location on the principal panel and using the same form of measurement.

Packages should be labeled so the busy housewife can determine their contents without juggling the package six different ways, without having to convert from pint and pounds into ounces, and without the need for a magnifying glass.

I offered amendments in the committee aimed at clear and conspicuous disclosure of the nature and amount in every package of consumer commodities. Once the shopper has that information, she does not need help from the Government in determining which product to buy.

These amendments were adopted by the committee.

The specific provisions they added to the bill include the following requirements:

First, labels bear the name and place of business of the manufacturer, packer, or distributor;

Second, the net content be separately stated and appear in a uniform location on the package;

Third, the net content of packages of less than 4 pounds or 1 gallon be expressed in whole or fractional ounces, rather than in mixed units of pounds and ounces or pints and ounces.

Fourth, the net content statement be generally parallel to the bottom of the package; and

Fifth, the statement of net contents be unadorned by any qualifying words or phrases.

These amendments, along with the other labeling provisions of section 4 of the bill, will virtually eliminate the confusion in the supermarket—at least to the extent that laws can deal with confusion. These provisions are the real gist of the bill, and accomplish its fundamental purposes.

Its proponents insist, however, on attacking variety. They demand that power be given officials in the executive

branch downtown to ultimately determine the sizes and weights in which commodities shall be packaged or bottled. This puts it in the power of a bureaucrat to standardize packaging. Such a step will limit, if not stifle, competition. It will make it more difficult for new and small producers to secure a place in the market by presenting their merchandise in new and distinctive sizes. It will compel manufacturers to spend millions of dollars in changing their machinery to conform to the edict of a Federal official. Every one of these results will add cost to the consumer—whom this bill is supposed to protect.

I regard this as a vicious bill if sections 5 (d), (e), (f), and (g) are permitted to remain in it. These sections make a Federal agency a czar to dictate all forms of packaging—to the detriment of the consumer, as well as the producer and manufacturer.

True, this authority is presented under the guise of a voluntary, willing undertaking by the industry, placing primary emphasis upon the voluntary product standards procedures of the Department of Commerce.

These procedures have worked well in many instances to produce genuine agreement on a voluntary basis on more than 500 products. They have also resulted in disagreement in other areas where truly voluntary agreement was not possible.

But, under the terms of this bill, the voluntary nature of the Commerce Department procedures are followed by compulsory Federal regulations. The industry affected will be negotiating with a gun at its head under the bill.

Furthermore, it must be understood that the Commerce Department procedures are based only on a general grant of congressional authority to the National Bureau of Standards. The current procedures were adopted by administrative action, and can be changed just by administrative action within the executive branch of Government. In addition, those procedures provide a built-in veto for any interested segment of the economy—be it producer, distributor and retailer, or consumer. For instance, the Secretary of Commerce who selects the group whose task it is to reach agreement on a voluntary standard, could readily choose consumer representatives who believed that compulsory Federal standards would be best. These consumer representatives could then thwart the voluntary procedures because an affirmative three-fourths vote of the group is required. Simply by voting "No," the consumer representatives—who apparently would constitute one-third of the group—could defeat any voluntary standard and leave the agencies free to push ahead with compulsory standards.

Clearly visible through the sugar-coating are tough, arbitrary, and far-reaching Federal powers to prescribe by regulation the sizes and weights in which consumer products can be produced and packaged. These unique powers can be invoked against the law-abiding, conscientious producer whenever a Government agency determines that a product

is being distributed in such different sizes that they are likely to impair the ability of consumers to make price-per-unit comparisons.

Even if the baffling ambiguities in these subsections were eliminated, even if the administration of the law were a model of justice and restraint, even if its voluntary aspects were not in fact ultimately compulsory, the effects would still be so appallingly harmful to consumers that the public would rebel in disgust.

One example will illustrate the baleful potential. We have carefully chosen as reasonable and realistic an example as we could. Company A produces potato chips. It has a good product. It is reasonably priced. It is honestly and fairly marketed. Its big seller is a 12-ounce package, a size chosen after unhappy experiences with other sizes, and on the basis of extensive research in its marketing area. The package has found a good market. It has loyal customers. Many prefer it because they like the 12-ounce size. It provides enough so the housewife is not always running out, but not so much they get stale.

Now comes a Federal agency, in this case the Food and Drug Administration, intent on rescuing the American housewife from a sea of confusion. It determines, under section 5(d), that potato chips are being marketed by all producers in so many different sizes that they are likely to impair the ability of consumers to make price-per-unit comparisons. Thus, it invokes the procedures of section 5(e), (f), and (g). The "voluntary" nature of some of these procedures—the product standard procedures of the Department of Commerce—is illusory for they can be readily converted into mandatory Federal regulations. The clearly possible result of the agency's efforts could be a regulation requiring potato chips to be packaged in 4-, 8-, 16-, and 24-ounce sizes—and in no other sizes. The 12-ounce package would then be banned.

In this "voluntary" way, company A would have to discontinue its successful 12-ounce package and switch to an 8- or 16-ounce package. It would have to convert its packaging line and machinery to the new sizes—at an appreciable cost (one witness testified that a new packaging line could cost up to \$400,000). And the cost inevitably would be reflected, in some measure, in the price of the product. Furthermore, the firm would now have to compete against the 8- and 16-ounce packages of other producers who have been building markets and customer loyalty at these weights for years. Thus, it must seek sales on terms chosen by its competitors, but with the added handicap of higher costs and higher prices imposed by Federal regulation. It is not hard to foresee that company A could be severely, if not fatally, damaged, through no fault of its owners, managers, or employees. This is the potential harm which the language of the bill can inflict on producers in many fields.

The consumer who preferred the 12-ounce package of potato chips—because it contained the right amount, or because the package fit conveniently on her kitchen shelf, or for whatever ra-

tional or irrational reason—is out in the cold. She must forego her desires. She must accept the size her Government thinks is best.

And yet, even despite such problems, the bill will not assure any improvement in the consumer's ability to make price comparisons. This is so because the price is set, not by the producer, but by the retailer—and set wholly outside the scope of this bill. Nothing in the bill requires even the posting of a price.

Consider, for illustrative purposes, two Government-standardized 8-ounce packages of different brands of potato chips. The retailer can price the first of these brands at two for 17 cents, and the second at three for 25 cents. The consumer's ability to make a price comparison would still be impaired unless she has the arithmetic ability to calculate that the price difference is one-sixth cent per package. It is, of course, a fundamental tenet of the advocates of the measure that such computations exceed the housewife's competence.

These provisions of the bill are a fuzzy, foolish, and futile attempt to help the housewife, who does not need the Government to decide for her what size package she can buy. This aspect of the bill will have myriad harmful effects. It will reduce competition, infringe on the consumer's freedom of choice, increase costs and prices, and confer on Federal officials virtually unrestrained power over critical aspects of trade.

These provisions of the bill reflect one of two views—both profoundly distasteful—that our citizens are gullible, incompetent, uncomprehending, and irresponsible, or else that the American businessman is deceitful, exploitative, or corrupt. It is an approach that regards our people, particularly the housewife-consumer, as childlike and helpless; so confused that she requires the benevolent but firm guidance of a wise government in Washington. This approach is demeaning, and in relation to business, morbid.

The American people, most of all the sensible, prudent, economical housewife of 1966, is not and never will be ready for "1984." I agree with the man who declared, "The consumer is no idiot, she's your wife." I also believe that deliberate malfeasance in the marketplace is very much the exception, not the rule. These provisions conveying extraordinary and excessive powers must be stripped from the bill.

That is the purpose of my amendment No. 572.

If it is adopted, I shall consider the bill, with its strengthened labeling provisions, a good bill and shall support it. If the amendment is defeated, I believe that the bill is a bad bill, the effect of which would be to enable bureaucracy to flex its muscles and to establish autocratic power of a Federal agency in the marketplace. I shall oppose it unless I am convinced that the House of Representatives either will remove these provisions or defeat the bill.

Mr. GORE. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. GORE. Will the Senator inform me by what committee vote the bill was reported?

Mr. MAGNUSON. The bill was reported by a vote of 14 to 4. There were some amendments to the bill. The most important amendment was the amendment offered by the Senator from New Hampshire. The Senate will vote on that amendment next week. The amendment applies to one section of the bill. I believe that the vote was very close on that amendment. However, when the bill was reported, the vote was 14 to 4.

Mr. COTTON. Will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. COTTON. I observe to the Senator from Tennessee that the crucial vote was not had on reporting the bill, but on the amendment to which the distinguished senior Senator from Washington referred. That vote was 11 to 7.

Mr. GORE. It is fair to conclude then, I take it, that the matters of contention with reference to the consideration of the bill will likely be on amendments rather than on passage of the bill.

Mr. MAGNUSON. That would be a fair statement. As I have pointed out before, this is a very important and complex bill. It deals with a great segment of our economy. It is probably the most important consumer bill that Congress has ever considered. It is good that there are some differences of opinion. However, I say to my friend, the Senator from New Hampshire, that the question mainly concerns the problem of which would be the most practical approach to a solution of this problem.

We desire to enact a law which can be administered simply and still achieve the basic goals of the Fair Packaging and Labeling Act, so that a housewife can easily make comparisons and know what she is buying and that she is receiving what she pays for.

There was very little disagreement in the committee about the objectives of the bill. The disagreement concerned the best practical solution to the problem.

Mr. PROUTY. Mr. President, the bill, S. 985, has been reported only after the most serious and lengthy consideration by the Committee on Commerce. Such a bill deserves no less than that.

The bill contains much that is good. I voted to report it to the Senate but with reservations, however, about some of its provisions, particularly portions of section 5. I voted to delete those provisions and, failing that, voted to modify them. I shall continue my opposition to them on the floor.

There is no member of the Senate committee who does not agree with the policy statement in section 2 of the bill, which reads, in part: "to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods."

"These goals," of course, meaning "efficient functioning of a free economy" and "enabling consumers to obtain accurate information as to the quantity of the contents of packages" and "facilitating price comparisons."

These are worthy objectives. Without reservation I support them. With reservation, I think the committee has met them.

The hearings on S. 985 were thorough and revealing. They contain references to some pet peeves and personal irritants which anyone can find with any function

of life, including supermarket shopping. Unfortunately, many of these little irritants have been used as justification for the proliferation-of-agencies provisions of this bill. By and large, however, the hearings did develop certain characteristics of present marketing practices which need correction or at least attention by both the Congress and industry.

For example, testimony was replete with concern over inadequate labeling; certain uses of "cents off" promotions; "giant quart" designations; fractional ounces and "economy" sizes which are not so in fact. Practically without exception, consumer groups and independent witnesses and, I expect, the wives and female constituents of every Member of the Congress had complaints and, in my view, justifiable ones about certain of these practices.

Our committee was, therefore, confronted with clear problems. We possessed our policy statement as a guide with which to seek a remedy. We had, then, only to employ a remedy with which to solve these problems within the framework of the policy statement. With S. 985 as it is reported, we are halfway toward that goal; floor amendment of the bill can complete our work.

Since I have differed with the committee majority on part of this bill, I shall discuss briefly its main provisions.

Section 3 limits the application of the provisions of this bill to certain links in the chain from producer to consumer. The retailer and his pricing of his wares is not intended to be the subject of the bill. He is properly removed from it in this section. The problems developed at the hearings went to manufacturing and distributing practices—labeling and packaging—and it is to these elements of marketing to which section 3 is properly directed.

Section 4 is designed to provide the shopper with a label which will identify the product for her clearly and which will provide an unmistakable identification of the package and its contents. This provision, it seems to me, is the single feature of this bill which will be of the greatest benefit to all concerned, and it does not, I am sure, run counter to the maintenance of efficient manufacturing sales and merchandising practices of industry.

Section 5 of the bill cannot be considered as a single entity in a discussion of the merits of this legislation. It contains at one and the same time, the essence of good legislative practice and the curse of Adam inherent in Great Society legislation; proliferation and escalation—a geometric progression and extension of Executive power.

Subsection (a) of section 5 designates the agencies which will, quite properly, administer the matters contained in the bill.

Subsection (b), again quite properly, permits the "promulgating authority" to make certain exemptions from the requirements which it may determine to be necessary under the terms of the legislation. This is simply a recognition that circumstances and situations do change.

Subsection (c) of section 5 of the bill is, with the labeling requirements of section 4 of paramount importance in the

effort to satisfy the problems raised at our hearings. It does, and I think effectively, provide for regulation of those marketing practices which the hearings demonstrated to need most urgent attention: relative size designations—small, medium, and large comparisons—the size and number of servings contained in some food packages, the “economy size” designation when in some instances savings may be negligible or even nonexistent.

Subsection (c) also permits regulation of the “cents off” promotion practice with which the witnesses as well as members of the committee seem to have had a great amount of difficulty.

Had the substantive bill stopped there, it would have been a highly commendable piece of legislation. It would have served the needs of the consuming public as evidenced by the hearings. It would have been a bill of which our committee could have been quite proud.

Subsections (d), (e), (f), and (g) of section 5 contain the matter which causes my differences with the majority of the committee to be very real and pronounced. Simply stated, these sections provide for standardization of packaging throughout the American marketing system. It is obviously of no significance to deny this import of the bill by saying that the words “package size” do not appear in the power granted under these subsections. The promulgating authority does, under these sections, possess the power to standardize and control the number of types of packages which may be used by the manufacturer and distributor. And, this power is his all to no good purpose, for the entire effort to regulate package sizes can immediately be nullified when those exempt from this act exercise their perfectly proper pricing functions.

Those subsections might possess some redeeming factor if they would accomplish any legitimate purpose at all. Of course, they will provide jobs for a certain few. So do many other Federal programs. But, in light of the policy statement in this bill and the reasons for the legislation, job creation is not a legitimate exercise of the legislative process in this instance.

I can think of nothing less imaginative or more dull than the results of the close regimentation of commercial packaging as these sections of S. 985 contemplate. I hold no particular brief for the esthetic qualities of packages of dry cereal or soap powder.

At the same time, I do not look forward to the day when Washington decides, however, sincerely, that my wife and I can buy potato chips only in a bag big enough for a family of 10 healthy children simply because there were prior to that decision, too many sizes available on the market.

This, indeed, is precisely the reason offered in defense of these subsections of section 5 of the bill—too many different sizes of bags of potato chips. The very best that can be said about these subsections is that they are frivolous. The very least that can be said in their favor is that they represent the continuous thread in Great Society legislation: That

each bill must contain proliferation of jobs and agencies and power or it is not worth reporting for floor action.

Mr. President, the most unfortunate aspect of this legislation is the certain contribution which these provisions in section 5 of the bill will make to the destruction of competition in the American marketplace. The ultimate victim of a lessening of competition will not be American industry or American commerce. Indeed, it will be the consumer who will suffer from regimentation of our commerce.

These parts of section 5 contribute significantly to a recognizable pattern of control of the marketplace.

They should not be permitted to remain in this bill.

GULF OF TONKIN RESOLUTION

Mr. SIMPSON. Mr. President, I should like a few moments this afternoon to address myself to a subject which concerns the credibility of the administration and the administration's spokesmen on the question of the war in Vietnam.

I ask unanimous consent that materials relevant to the subject to which I shall allude be printed in the Record at the conclusion of my remarks. These include a copy of Public Law 88-406, the text of a press briefing by Defense Secretary McNamara dated August 5, 1964, and the text of the Defense Secretary's news conference of the same date.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Mr. President, without opening a discussion into the legality of the American involvement in Vietnam, it can be stated that the so-called Gulf of Tonkin resolution (H.J. Res. 1145) signed into law by the President on August 10, 1964, is an important element of our position there.

As will be recalled, this resolution was introduced, considered in committee, and passed by the Senate and the House with the greatest of speed during the last presidential election year, and its tenets have been invoked countless times in the continuing discussion of the war in southeast Asia.

As is equally self-evident, the resolution is predicated upon the premise that there were unprovoked attacks upon American ships on the high seas on August 2 and 4, 1964. Repeated statements have been made by numerous administration spokesmen to the effect that these attacks were, in fact, unprovoked and occurred somewhere between 15 and 60 miles from North Vietnamese territorial waters and were a “serious threat to international peace.”

I was surprised to read in the transcript of the May 9 hearings before Senator FULBRIGHT's Foreign Relations Committee, during which Secretary of State Rusk was under questioning, that there is apparently some question in the mind of the chairman as to the validity of these major premises.

According to the transcript, which is borne out by a tape recording I have of the proceedings, the junior Senator from

Arkansas said, after recounting briefly the history of the Tonkin Gulf resolution, that since the hearings on the resolution, “there has come to my attention suggestions that the whole affair was very questionable as to the character of the attack upon our ships on the high seas.”

The Senator then went on to deliver what I would construe to be an assertion that the resolution was intended “to inflame everybody” in the middle of a campaign for the Presidency.

Senator FULBRIGHT continued in his delivery by alluding to the “allegation” by the administration that “this was a deliberate and unprovoked attack on our ships upon the high seas.”

So that there will be no question of the context in this matter, I read now from pages 923 and 924 of a committee print of the hearings. Senator FULBRIGHT is speaking:

The whole thrust, I think you will admit, of the Tonkin Gulf resolution was there had been an attack on the high seas on our ships, and the language you insist now as being of great significance was more or less like a whereas to any other resolution. It was a statement of general principles. It was not than considered, I do not believe by anyone, and it certainly was not for me, and I have already publicly apologized for my negligence in not having much more thorough hearings on that resolution, because since that time there has come to my attention suggestions that the whole affair was very questionable as to the character of the attack upon our ships on the high seas.

It is very easy to inflame anybody, particularly in the middle of a campaign for a Presidential election by stating that there has been an attack on the high seas on one of our ships. That was the whole purpose of that resolution. Certainly everyone agrees we ought to repel an unprovoked, deliberate attack upon our ships on the high seas where they had a right to be.

Any suggestion at the time that this might have been a deliberate provocation on our part to invite the incident or that we had been inside the territorial waters of North Vietnam in connection with some boats of South Vietnam, and all of that was brushed aside in the emotions that naturally arose from an *allegation* by the Administration that this was a deliberate and unprovoked attack upon our ships upon the high seas, and I think you have to admit that was the main thrust.

Now, Mr. President, in my view, this is a most serious matter because the chairman of one of the Senate's most powerful and influential committees, a committee which is playing a great role in shaping public opinion in regard to the war in Vietnam, would seem to have suggested that there was chicanery on the part of the Democratic administration during an election year and in regard to a matter of the gravest international import.

I have taken the liberty of reading some of the past Senate debate on these matters and I would like at this point to read into the Record a brief chronology of events.

Mr. President, as I have said, the attacks upon our ships occurred on the 2d and the 4th of August 1964. Upon that point there is no dispute. On the 4th of August, the President went on national television during prime time to

announce that "renewed hostile actions against U.S. ships on the high seas in the Gulf of Tonkin have today required me to order the military forces of the United States to take action in reply."

At about midnight that night, Secretary McNamara held a press conference in which he announced that "our destroyers have undergone two deliberate attacks in international waters."

That same day at a press briefing, Secretary McNamara again asserted that "North Vietnamese surface vessels attacked U.S. destroyers operating on routine patrol in international waters in the Gulf of Tonkin."

On August 5 the President requested the resolution on which hearings were held in executive session the following day.

On that day, August 6, the measure was reported out by the joint Senate committee. It passed the Senate 82-8 on August 7, on which date it also passed the House. It was signed into law on August 10 to become Public Law 88-408.

The resolution says, in part:

Naval units of the communist regime in Vietnam . . . have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters.

A report submitted by the junior Senator from Arkansas to accompany Senate Joint Resolution 189—the Senate version of the resolution—referred to the unprovoked attacks by North Vietnam on United States forces in international waters.

The Senator from Arkansas, in Senate debate on this resolution August 6, defended the American response to the attacks and the points of fact in regard to them in a forceful and eloquent manner. He told the Senate that he recommended "the prompt and overwhelming endorsement of the resolution now before the Senate"—the Tonkin Gulf resolution—and he went on to assert that "the facts on the immediate situation are clear."

In recounting the attacks of August 2 and 4, the Senator noted that both attacks occurred without provocation and that they occurred in international waters. He went on to say that "the action taken by the United States was appropriate as policy as well as justifiable in law."

But later, doubt enters the record.

During Senate debate on March 1 of this year in the context of discussions of the supplementary military and procurement authorization, the junior Senator from Arkansas is quoted, on page 4201, as saying in regard to the Tonkin Gulf incident:

We were told it was an unprovoked attack. In other words, we had not done anything which could properly be considered as provocation. . . . I had no reason to doubt the factual situation.

Further on in that debate, on page 4207, Senator MORSE is quoted as saying:

I judge from the way the Senator from Arkansas has expressed himself that he is not too sure just exactly what happened at Tonkin Bay.

In any event, Mr. President, it is, in my view, a most serious business when doubt is cast upon the basic facts of an

international incident which triggered a Senate resolution giving the President of the United States carte blanche authority in dealing with a war situation.

If I have read correctly the comments of the Senator from Arkansas, sometime prior to the hearings of May 9, the Senator has come into possession of what he considers to be evidence that events in the Gulf of Tonkin did not occur quite as the administration has stated.

Let me stress here that I do not know from firsthand knowledge precisely what happened at the Gulf of Tonkin, but official reports and statements, which are, to the best of my knowledge, the only credible account of the events, suggest that our ships were attacked in international waters. The question of provocation would, I suppose, depend upon who is on the receiving end, but I have neither seen nor heard—and I have been a party to briefings by the Secretaries of State and Defense on this matter at the White House—any evidence which would obviate the commonly held premise that our ships were attacked in international waters without provocation.

Let me make crystal clear at this point that on the basis of my past experience with the administration, I am certainly not wedded to the idea that everything the administration says is to be accepted at face value. Although I am inclined to accept the White House version of Tonkin Gulf, I will certainly acknowledge that utter candor is not a hallmark of this administration.

On the basis of the Senator's statement of May 9 and the already well-known position of the administration, it would seem that there is a fundamental conflict of views. This conflict is in the facts of an international incident from which came an extremely important document that is the basis for many of the administration's prerogatives in Vietnam.

If the Senator from Arkansas has unearthed evidence or has found a body of fact contrary to the official version of the Tonkin Gulf attacks, then this is a matter which is extremely important to a nation which is struggling to fully comprehend the history, the implications, and the extent of our commitment in Vietnam.

In all respect to the Senator's high position as chairman of the Committee on Foreign Relations, I call upon him to explain fully the nature of his statement during the hearings of May 9. If the Senator has or can acquire the evidence to substantiate his statement, then it would, in my judgment, be in the national interest to fully pursue this matter with hearings, investigations, or public disclosures so that light can be cast into an area in which darkness may now prevail.

Mr. President, as I was preparing to speak I received a letter from the distinguished Senator from Arkansas [Mr. FULBRIGHT] in which he tells me the subject was examined in detail with representatives of the Department of Defense in executive session on May 24, 1966, and "I would be delighted to have you examine the transcript of that meeting." I shall examine that record and I shall ask

that the relevant portions of it be made public in answer to the questions I have raised.

EXHIBIT 1

H. J. RES. 1145

[Public Law 88-408, 88th Cong. Aug. 10, 1964]

Joint resolution to promote the maintenance of international peace and security in southeast Asia

Whereas naval units of the Communist regime in Vietnam, in violation of the principles of the Charter of the United Nations and of international law, have deliberately and repeatedly attacked United States naval vessels lawfully present in international waters, and have thereby created a serious threat to international peace; and

Whereas these attacks are part of a deliberate and systematic campaign of aggression that the Communist regime in North Vietnam has been waging against its neighbors and the nations joined with them in the collective defense of their freedom; and

Whereas the United States is assisting the peoples of southeast Asia to protect their freedom and has no territorial, military or political ambitions in that area, but desires only that these peoples should be left in peace to work out their own destinies in their own way: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

SEC. 2. The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

SEC. 3. This resolution shall expire when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress.

Approved August 10, 1964.

LEGISLATIVE HISTORY

House Report No. 1708 (Committee on Foreign Affairs).

Senate Report No. 1329 accompanying S.J. Res. 189 (Committee on Foreign Relations).

CONGRESSIONAL RECORD, volume 110 (1964): August 6: Considered in Senate.

August 7: Considered and passed Senate, in lieu of S.J. Res. 189.

August 7: Considered and passed House.

NEWS CONFERENCE OF HON. ROBERT S. McNAMARA, SECRETARY OF DEFENSE, THE PENTAGON, WEDNESDAY, AUGUST 5, 1964

Secretary McNAMARA. Earlier tonight, the President told the nation the United States would take appropriate action to respond to the unprovoked attacks on U.S. naval vessels by torpedo boats of North Vietnam. I can tell you that some of that action has already taken place. U.S. naval aircraft from the carriers *Ticonderoga* and *Constellation*, these carriers operating in the Gulf of Tonkin where our destroyers had undergone two deliberate attacks in international waters, have already conducted air strikes

Question. Mr. Secretary, approximately how many hostile torpedoes were fired at our ships?

Secretary McNAMARA. It is very difficult to estimate. I don't wish to make a guess at them.

Question. How many do they carry, sir?

Secretary McNAMARA. I don't wish to approximate that, either.

Question. Has your government been in touch during today or since Sunday with the Government of the Soviet Union on those incidents?

Secretary McNAMARA. I would rather not discuss that.

Question. Mr. Secretary—

Secretary McNAMARA. One more question.

Question. I have three sunk in my notes.

Secretary McNAMARA. One sunk on Sunday, at least two sunk today, possibly a third sunk today, for a total of possibly four, as a possible.

Question. And the last one is a possible.

Secretary McNAMARA. The possible third one today which would make a four possible in total.

Question. Did you say the nearest torpedoes were about 200 yards away?

Secretary McNAMARA. Torpedoes were reported as passing between 100 and 200 yards abeam of the ships. One more question.

Question. Can you set something up for tomorrow?

Secretary McNAMARA. I will see that you are provided with whatever news we can properly release. I will either do it myself or arrange for others to do it.

Question. How about tonight?

Secretary McNAMARA. I don't believe there will be anything tonight. I will be receiving reports. I am going to stay in the building tonight and receive reports every half hour from CINCPAC. But I doubt that there will be anything to release tonight.

The Press. Thank you, sir.

End, 12:30 a.m.

DEPARTMENT OF DEFENSE PRESS BRIEFING BY HON. ROBERT S. McNAMARA, SECRETARY OF DEFENSE, 9 A.M., WEDNESDAY, AUGUST 5, 1964

Secretary McNAMARA. As you know, on August 2nd, and again on August 4th, North Vietnamese surface vessels attacked U.S. destroyers operating on routine patrol in international waters in the Gulf of Tonkin.

In retaliation for this unprovoked attack on the high seas, our forces have struck the bases used by the North Vietnamese patrol craft. During the night, 64 attack sorties were launched from the U.S. carriers *Ticonderoga* and *Constellation* against the four North Vietnamese patrol bases and certain support facilities associated with those bases.

The points are located on this map showing the Gulf of Tonkin, South China, North Viet Nam. The first base is at Hon Gay in North Viet Nam; the second at Loc Chao; the third at Phuocloi; the fourth at Quang Khe; and the fifth strike was against the Vinh oil storage depot, which is associated with the Swatow torpedo base.

The oil storage depot, which contains 14 tanks, approximately 10 percent of the total petroleum storage capacity of North Viet Nam, was 90 percent destroyed. Smoke was observed rising to 14,000 feet. In addition to the damage to the torpedo boat bases and their support facilities, approximately 25 of the boats were damaged or destroyed.

Two of our aircraft were lost, two of our aircraft were damaged, all others have been recovered safely on the carriers. The destroyers *Maddox* and *Turner Joy*, which have been operating on routine patrol in the Gulf of Tonkin, have resumed their patrol operations in international waters.

Last night I announced that moves were underway to reinforce our forces in the Pacific area. These moves include the following actions: First, an attack carrier group

has been transferred from the First Fleet on the Pacific Coast to the Western Pacific. Secondly, interceptor and fighter bomber aircraft have been moved into South Viet Nam. Thirdly, fighter bomber aircraft have been moved into Thailand. Fourthly, interceptor and fighter bomber squadrons have been transferred from the United States into advance bases in the Pacific. Fifthly, anti-submarine task force group has been moved into the South China Sea. And finally, selected Army and Marine forces have been alerted and readied for movement.

I want to emphasize that the damage report which I gave to you is based on preliminary reports received shortly after the completion of operations.

Now I will take your questions and endeavor to answer them.

Question. Mr. Secretary, were the planes that we lost, the two planes, downed by ground fire, and also, was there any air action from North Viet Nam?

Secretary McNAMARA. The two planes we lost were downed by antiaircraft fire. There was no enemy air reaction.

Question. Mr. Secretary, can you tell us the height of the attack? How low did they come?

Secretary McNAMARA. Generally, the strikes were at low level.

Question. And the local times, Mr. Secretary?

Secretary McNAMARA. The local times ranged from on the order of Noon to 4:00 or 5:00 o'clock in the afternoon.

Question. Can you tell us, sir, how long the attack—

Secretary McNAMARA. These are local Vietnamese times.

Question. Can you tell us how long the entire strike lasted?

Secretary McNAMARA. Roughly four to five hours.

Question. How was the weather?

Secretary McNAMARA. Bad.

Question. Rainy?

Secretary McNAMARA. Low ceiling.

Question. What types of antiaircraft fire?

Secretary McNAMARA. There was heavy antiaircraft fire over several of the targets.

Question. Missiles?

Secretary McNAMARA. Guns rather than missiles.

Question. Small caliber or big caliber?

Secretary McNAMARA. I can't tell you the caliber other than it was heavy antiaircraft bases.

Question. Can you tell us at which of these places the planes were downed?

Secretary McNAMARA. No, I can't.

Question. What was the question?

Secretary McNAMARA. The question was at which point were the two aircraft lost. I can simply say that the heaviest antiaircraft fire was received at Hon Gay, the most northerly of the bases attacked.

Question. Is that also the largest?

Secretary McNAMARA. It is the largest; yes.

Question. At the torpedo bases themselves, can you describe the damage itself as light or heavy?

Secretary McNAMARA. It is too early to say. We will have to wait until the pilots' reports have been assessed.

Question. And the number of American casualties?

Secretary McNAMARA. Two. Two pilots were lost, one in each of the two downed aircraft.

Question. Are you giving out their names?

Secretary McNAMARA. Not until their nearest of kin have been notified.

Question. That will be sometime today?

Secretary McNAMARA. Yes, it will.

Question. Were they picked up?

Secretary McNAMARA. We believe they were lost.

Question. At sea or land?

Secretary McNAMARA. At sea.

Question. Will we take reconnaissance missions over there?

Secretary McNAMARA. We will take such action as is necessary to determine the results of our operations.

Question. How much of the petroleum supply did you say?

Secretary McNAMARA. Approximately 10 percent of the petroleum capacity of North Viet Nam is located at Vinh, the point that was struck. Approximately 90 percent of that 10 percent was destroyed.

Question. Are these the only four torpedo boat bases?

Secretary McNAMARA. These four are the main bases. With a coastline such as this, of course, the boats occasionally use other areas for staging areas.

Question. Can you tell us what percentage it is of their total fleet?

Secretary McNAMARA. No, I can't, except that it is a very substantial percentage.

Question. Mr. Secretary, how do you explain these attacks?

Secretary McNAMARA. I can't explain them. They were unprovoked. As I told you last night, our vessels were clearly in international waters. Our vessels, when attacked, were operating in this area, roughly 60 miles off of the North Vietnamese coast.

Question. There have been reports that South Vietnamese vessels were showing or taking some sort of action against North Viet Nam approximately at this time.

Secretary McNAMARA. No, to the best of my knowledge, there were no operations during the period I was describing last night.

Question. Mr. Secretary, what orders now for either the Seventh Fleet or for these particular units of the Seventh Fleet?

Secretary McNAMARA. Our orders to the commanders are to continue their patrols, to protect themselves against aggression on the high seas with whatever force is necessary.

Question. Has there been any word—

Question. Mr. Secretary, would you say this will be all that will be necessary, that the attack has met its objectives?

Secretary McNAMARA. Whether this is all that is necessary depends entirely on the North Vietnamese.

Question. Do you think the air strike accomplished its objectives?

Secretary McNAMARA. The air strike very clearly made clear to the North Vietnamese our intention to maintain our right to operate on the high seas. That was the objective. I think that has been accomplished.

Question. Wasn't the objective to wipe out the PT boat fleet?

Secretary McNAMARA. Our objective was to deter the PT boat fleet from further attacks on our vessels. I believe we have accomplished that.

Question. Were any attempts made, Mr. Secretary, to go after the antiaircraft batteries?

Secretary McNAMARA. There were no actions against the antiaircraft batteries. The attack was against the patrol boat bases and the associated facilities.

Question. Mr. Secretary, last night there were three bogies reported, three unidentified aircraft. Did we ever find out in which direction they came from?

Secretary McNAMARA. We have no identification on those aircraft. They did not participate in the attacks on our vessels.

Question. Sir, are there villages or towns adjacent to or linked up with these bases?

Secretary McNAMARA. There were no civilian centers close to the bases which were attacked last night.

Question. Mr. Secretary, could you give us the estimate of how many percent of the North Vietnamese patrol boat fleet has been destroyed or damaged?

Secretary McNAMARA. No, I can't estimate for you the exact percent destroyed or dam-

aged, other than to say that it was a very substantial percentage of their fleet.

One more question.

Question. From what you say, there are no further actions of this kind going on at the moment, or planned. Is that correct?

Secretary McNAMARA. No operations are being carried on by our forces at the present time, other than the continuation of the routine patrol activities of the *Turner Joy* and the *Maddox*, the two destroyers which have been operating in international waters in the Gulf of Tonkin.

Thank you very much.

The PRESS. Thank you, Mr. Secretary.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(At this point Mr. HARRIS, the Acting President pro tempore, assumed the chair.)

Mr. MORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

FAIR PACKAGING AND LABELING ACT

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

AMENDMENT NO. 576

Mr. MORTON. Mr. President, I offer an amendment to the pending legislation which I ask to have printed.

I assure all Senators that I will not call it up until after the disposition of the Cotton amendment, which I understand is set for 4 o'clock on Monday next; but I ask that this amendment be printed, and give my colleagues notice that I may call it up subsequent to the vote on the Cotton amendment.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table.

SOUTH VIETNAM REQUESTS UNITED NATIONS OBSERVERS AT ELECTIONS

Mr. RIBICOFF. Mr. President, on May 12, 1966, I introduced a resolution which reads as follows:

RESOLUTION

Whereas the Republic of South Vietnam is actively engaged in making preparations for elections to choose a constituent assembly in a constructive effort to bring about a more representative government, and

Whereas the United States is dedicated to the principle, in the conduct of its foreign affairs, that peoples everywhere have the right to determine their own destinies through free participation in elected governments; and

Whereas the success of the promised elections in South Vietnam will depend on the assurance that they will be free, fair, and open; and

Whereas the United States has committed its resources and the lives of its men to the cause of freedom for the South Vietnamese people; and

Whereas an objective and international presence would make a significant contribution to assuring that the promised elections in South Vietnam are free, fair, and open, and thus help substantially in bringing about political stability and the establishment of effective political institutions: Therefore be it

Resolved, That it is the sense of the Senate that the President should encourage the Government of South Vietnam to seek United Nations observers for its forthcoming elections; and

That the President should call upon the United Nations to assign United Nations observers to the forthcoming elections in South Vietnam.

I am pleased to announce that United Press International reported a few minutes ago from the United Nations that South Vietnam today formally requested United Nations observers for its elections of a constituent assembly in September.

The dispatch reads as follows:

UNITED NATIONS.—South Vietnam today formally requested U.N. observers for its elections of a constituent assembly in September.

The request was put verbally to Secretary General Thant by Ambassador Nguyen Duy Lien, South Vietnamese observer to the United Nations.

It was not immediately clear whether the Saigon Government wanted the world organization immediately to send observers or whether it envisaged a supervisory role for the U.N. in the elections.

A U.S. spokesman said Lien "informed the Secretary General that the Government of South Vietnam intends to hold elections for a constituent assembly in September and requested the United Nations to send observers."

He said South Vietnam would make its request in writing later.

Only last weekend, before the request was made, Thant said in Windsor, Ont., he could not see the use of U.N. supervision of Vietnamese elections "at this time."

On his return from Europe on May 5, Thant also said he saw no possibility of a U.N. supervisory role in Vietnamese elections because it would run into Soviet opposition in the Security Council.

Mr. President, I am satisfied that the President had a distinct role in urging the South Vietnam Government to make this request of the United Nations. I think this is a most important breakthrough, and very important for the future of the entire Vietnam problem.

Mr. RIBICOFF subsequently said: Mr. President, I have just talked with the President of the United States and our Ambassador to the United Nations, Arthur Goldberg, concerning the request of Saigon to the United Nations to send observers for the elections which are to take place in South Vietnam in September.

Both the President and Ambassador Goldberg told me that the proposal from Saigon for United Nations participation has their wholehearted support. It is the hope of the President that the United Nations will act on the request of the Saigon government and send observers to South Vietnam to observe these most important elections.

When the suggestion that the U.N. play a role in the South Vietnamese elections was first made by me on May 5, it was welcomed by the President. But the President was dealing with an independent government, and it was necessary for Saigon itself to make the request.

Now the request has been made. And now, of course, the problem is whether the United Nations will accede to the request of the Saigon government. In the final analysis, U Thant, Secretary General, has no power independent of the power given to him by the General Assembly and the Security Council.

The decision as to whether the United Nations will play a role in the Saigon elections will depend in large part upon the Soviet Union and France. In the forthcoming discussions, those two Nations will play the critical roles.

The Soviet Union and France have a duty not to block the request which was made by Saigon for observers at their elections.

Our Ambassador to the United Nations will have something more to say at the White House, within a few minutes, and he will also make his position known before the United Nations. But it is very encouraging that both the President and Ambassador Goldberg support wholeheartedly the request for United Nations participation in the upcoming South Vietnam elections.

It is my hope that the Secretary General will use all his influence, all his persuasive abilities, and also the prestige of his office, to prevail upon the other members of the United Nations to accede to the request of Saigon, to the end that these elections will be fair; and to the end that these elections will be of a nature which, once held, will merit the confidence not only of the people of South Vietnam but also of the people of the entire world.

For the forthcoming election of a constituent assembly affords a great opportunity. The process will have been begun which can lead to the election of a government which will truly represent the people of South Vietnam.

I noticed that the distinguished Senator from Oregon [Mr. MORSE], who has been making such clear statements on this subject, whose position is so well known throughout the country and who, time and time again, has asked for United Nations participation—has just come into the Chamber.

For the benefit of the Senator from Oregon, let me repeat that the Government of South Vietnam has asked for United Nations supervision of the September election. This can be a great step forward—one which I have been urging for some time and one called for in the Senate resolution I introduced last month.

An international presence is essential if the contending groups in South Vietnam and the nations of the world are to have full confidence in the outcome of the elections. Only free and honest elections can lead to a resolution of the problems that plague South Vietnam.

I talked today with President Johnson and Ambassador Arthur Goldberg. The South Vietnamese request has the enthusiastic and strong support of the President. Ambassador Goldberg will carry the proposal to the United Nations with vigor and conviction.

Now the matter rests with Russia and France. With their support, the United Nations can play a vital role in South Vietnam. Without their support, it will be difficult. I hope that Russia responds

The principal amendments to S. 1761 adopted by the House of Representatives are found in a new section 2 of the House bill, as reported by the House Committee on Interior and Insular Affairs. This section, in essence, will establish by statute the same type of Columbia Basin Account that the Secretary of the Interior has in fact established administratively. It will require the Secretary to maintain and present annually to the President and the Congress a consolidated financial statement for all projects heretofore or hereafter authorized from which commercial power is marketed through the facilities of the Federal Columbia River power system. Included in that statement will be the costs of other projects to the extent that such costs, with the approval of Congress, have been assigned for repayment out of the power revenues of the Federal Columbia River power system. If that statement indicates that the reimbursable construction costs of any project which are to be repaid out of power revenues cannot be returned within the period prescribed by law, the Secretary is directed to take prompt action to adjust the rates so as to assure such return within that period.

I have discussed this provision of the bill with Representative ASPINALL, the chairman of the House Committee on Interior and Insular Affairs. He confirms my understanding that the foregoing provisions of the bill are not intended to make any change in the Bonneville Project Act other than the substitution of a consolidated system repayment study, of the type that the Secretary of the Interior presented to the House Interior Committee at the hearings on H.R. 7406, for the more limited statement with respect to only the Bonneville project which is called for by section 9(c) of the Bonneville Project Act. For example, the "prompt action to adjust the rates charged" for BPA power which the Secretary is to take, does not change the provisions of section 5 of the Bonneville Project Act directing that power sales contracts "shall contain such provisions as the Administrator and the purchaser agree upon for the equitable adjustment of rates at appropriate intervals, not less frequently than once in every 5 years." Bonneville contracts provide for rate adjustments on December 20, 1969, and December 20 of every fifth year thereafter. Rate changes for existing contracts can be made only on those dates. Normally all rate changes are made only on rate adjustment dates, so that the same rates will be applicable to both contracts existing at the time a rate is changed and new contracts executed thereafter. As the report of the House Committee on Interior and Insular Affairs—H.R. Report No. 1409—makes clear, the "prompt action" required by H.R. 7406 will be taken only within the rate adjustment framework provided by the Bonneville Project Act. Nor does H.R. 7406 make any change in the rate criteria of the Bonneville Project Act, section 5 of the Flood Control Act of 1944, or section 9 of the Reclamation Project Act of 1939.

The consolidated financial statement which the bill requires is to be prepared

on a payout basis and not a cost accounting basis. Power rates are established on a repayment basis, and therefore a statement prepared on that basis is the most meaningful. The Senate concurs in the position of the House that the purpose of the statement is to ascertain the repayment status of the Federal Columbia River power system and to permit prompt adjustments in the then existing rate schedules if the statement shows that any changes should be needed.

There is a clear understanding that only power and irrigation projects in the Pacific Northwest are included, or are eligible for inclusion, in the consolidated financial statement to be prepared pursuant to section 2 of the bill. The term "Pacific Northwest" is specifically defined by law (78 Stat. 756) and this definition is applicable in section 2 of H.R. 7406. Therefore, a project outside the Pacific Northwest cannot be a project associated with those in the Pacific Northwest and is not eligible for assistance from power revenues of the Federal Columbia River power system. Nor is it intended that any proposal for the transportation of water outside of the Pacific Northwest would be eligible for assistance from the power users of the Federal Columbia River power system.

The new section 2 of H.R. 7406 further provides that as reclamation projects in the Pacific Northwest are hereafter authorized, that portion of the construction costs which is allocable to irrigation but is beyond the ability of the water users to repay within the repayment period prescribed by law for that project—and cannot be returned within that period from other project sources of revenues—shall be charged to and returned from the power revenues of the Columbia River power system unless otherwise provided by law. This provision relates only to Pacific Northwest reclamation projects hereafter authorized and does not extend to any existing or presently authorized project for which there is now no provision for assistance to irrigation from power revenues. This portion of section 2 will apply to future projects in the Pacific Northwest the same practice which is currently being followed by the Congress and the Secretary of the Interior, almost without exception, on a project-by-project basis. This amendment does not add any obligation on power to assist in the repayment of any irrigation development that has not already been authorized by other law. It does provide an orderly accounting system specifically authorized by Congress whereby any additional assistance from power to irrigation which may hereafter be approved by Congress in connection with future projects in the Pacific Northwest will be an obligation of the entire Federal Columbia River power system and not of just a single project of that system.

It may be asked, why has there been so much concern in the Pacific Northwest about the Congress approving a "basin account" for that region if the Secretary of the Interior already has established one administratively? There are, I believe, several good reasons. First of all,

it involves a more far-reaching and long-lasting declaration of National and regional policy when the legislative branch, as well as the executive branch, of government approves a so-called basin account. In the absence of specific congressional direction, the Secretary of the Interior could disestablish a Pacific Northwest basin account under the same broad statutes he relied upon to establish a basin account. We must not forget that these statutes—the Bonneville Project Act, the Reclamation Act of 1939, and the Flood Control Act of 1944—have been the law for more than 20 years. Yet the Secretary did not exercise his discretion under them to establish a Columbia River Basin account until 3 years ago. I am not suggesting that the Secretary abused or exceeded his statutory discretion in directing that Bonneville Power Administration present its financial results by a consolidated system payout study or basin account—quite the contrary. I am only pointing out that, until a statute specifically directs that Bonneville Power Administration present its accounts in this manner, the hand that giveth could also taketh away. Everyone, regardless of his position on the question, has realized that this is true.

But I believe there is even a more basic reason why the people of the Pacific Northwest have been concerned about legislation to create a regional basin account. The purpose of such an account, in simple terms, is to provide a mechanism whereby power consumers can subsidize worthy irrigation projects. In the Pacific Northwest, the public is very concerned about the Bonneville power system rates. With the region facing a transition from all-hydroelectric generation to hydro-plus-steam in the next decade or sooner, this concern is becoming more acute. One needs only to recall the strenuous objections last year to a proposal for a 3-percent increase in those rates. These objections streamed forth from all segments of the regional economy, and both sides of the political aisle. This increase was unanimously approved as reasonable by the Federal Power Commission after lengthy oral arguments. The lesson, however, was clear. We do not want it to happen again.

On the other hand, the people of our region, including those in the great population centers on the coast which have ample rainfall, also support reclamation projects to put water on dry lands. The economic benefits from such projects are recognized to be regional and national in scope. Labor unions, railroads, trucks, barge lines, banks, wholesalers, distributors, insurance companies—indeed, all segments of the economy share in the benefits of new irrigation projects.

And so we have the fundamental problem of the basin account: How can we reconcile the partly conflicting, but partly complementary, interests of the power consumers and the irrigators in the Pacific Northwest? The problem can be solved, and as I will suggest shortly, I think the basis for a solution already has been found. But we must recognize

that the problem is much more complex and difficult in the Columbia River Basin than in the other great river basins of the West, where basin accounts long have been accepted and are in operation.

In the Missouri, Central Valley in California, and Colorado River Basins, the Federal dams traditionally have been justified by their ability to assist reclamation. The electric energy produced at these plants constitutes only a small proportion of the total electric generating resources of the region. In the Missouri Basin, the Federal hydroelectric projects produce only 21 percent of the electric energy consumed in the basin. In the Central Valley, they produce about 12 percent, and in the combined Upper and Lower Colorado, 8 percent. As a result, the Bureau of Reclamation, which is the Federal power marketing agency in these three basins, has committed substantially all of its production to supply irrigation pumping loads and preference agencies. In the entire Missouri, Central Valley, and Colorado areas, the Bureau of Reclamation does not serve directly a single industrial customer. Its rates to preference customers vary from 4¾ to 7½ mills per kilowatt-hour, including wheeling and line losses—in some cases not much lower than wholesale rates charged by the private utilities of the area which generate electricity with steam.

The Federal power program in the Pacific Northwest plays a much different role as the supplier of power in the Northwest regional economy. Traditionally, Columbia River Federal water projects have been economically justified by their power potential. The Columbia River is the greatest power river in North America, having more electric energy capability than the combined Missouri, Colorado, and Central Valley Rivers. The Bonneville Power Administration, which is the Federal power marketing agency for Columbia River projects, supplies about one-half of the electric energy requirements of the entire region. In my own State of Washington the Bonneville Power Administration now supplies 60 percent of the State's electric requirements. Bonneville's customers are not limited to preference agencies. Fifty percent or more of its sales are to nonpreference customers, principally electroprocess industries. The great Hanford works, which supplied plutonium for atomic weapons, depends upon Bonneville power for its large requirements of electricity. Industries that rely upon Bonneville Power Administration in the Pacific Northwest employ 36,000 people directly and indirectly, and provide local taxable property with a reproduction value of nearly \$1 billion, and Federal income taxes estimated at \$17 million.

Each year they contribute to the regional and National economy \$92 million in wages and salaries, \$44 million in freight, \$75 million in regional and \$110 million in national materials purchased.

The problem then is to develop ground rules to protect the legitimate interests of both the power users and the water users, keeping in mind the overall public interest of the Pacific Northwest and the

Nation. It is my view that reasonable limitations on the amount or timing of assistance to irrigation are required. Such a limitation is necessary to assure that financial assistance to irrigation will not cause an increase in power rates.

Representatives of the Bonneville power users, and of reclamation groups and of water officials of Pacific Northwest States have been seeking a resolution of this dilemma. It now appears that they are close to agreement upon a formula that will protect the electric consumer but, at the same time, make available large surplus revenues for the expansion of the Federal reclamation programs in the Pacific Northwest.

The Bureau of Reclamation, also, has indicated its concurrence in the formula. The key to the formula is an agreement upon the scheduling of newly authorized reclamation projects. In short, they will be scheduled so that their requirements for financial assistance from surplus power revenues will fall due in years when there will be a sufficient surplus so that payment will not require an increase in BPA rates and charges. Yet the formula is ample enough that foreseeable irrigation projects, authorized and unauthorized, can be constructed on an orderly and accelerated schedule.

I am confident that the negotiations by representatives of the affected States and of the power users and reclamationists will culminate in agreement on a proper formula. I wish to congratulate them in advance for working out an equitable solution of a thorny problem. I trust that the results of their labor will be incorporated into legislation at this session of the Congress. Such limitations can be established either by general legislation or in the course of approving individual project authorization bills. In my view, the adoption of a reasonable limitation is absolutely essential before the Congress favorably considers legislation to authorize new irrigation projects in the Pacific Northwest which require assistance from power revenues.

I have been reluctant to recommend the approval of S. 1761, as amended, while this problem was unresolved. However, now that the various parties in interest are substantially in agreement on a fair and equitable solution, one which will unite the Pacific Northwest, protect the power users, and accelerate the orderly development of worthy reclamation projects, I am happy to recommend the measure to the Senate.

I yield now to the distinguished Senator from Idaho [Mr. JORDAN], who, with his skill and knowledge, has been an effective member of the Committee on Rules and Administration.

Mr. JORDAN of Idaho. Mr. President, I thank the distinguished Senator from Washington. I wish to thank the distinguished chairman of the Committee on Interior and Insular Affairs for the constructive statement he has made.

All of us who are familiar with the Columbia River and its tributaries, and the various and sundry uses to which they have been put, are appreciative of the constructive work that has been done in this measure. We all feel that there is

a need for a third powerplant at Grand Coulee. We cannot delay construction of it too long. We cannot, particularly if we are to have storage in Canada, relay construction of a third powerplant at Grand Coulee in order to utilize the power that will be available to it.

We know we must face up to the problems that arise—it is not a conflict, really—as between the power users and water users. I am pleased about the constructive efforts by our distinguished chairman and many others, who have worked both in the Senate and in the field with respect to the Columbia Basin. I think we are near an agreement on a formula with which we can live, on which the water users and power users can agree.

Again I wish to identify myself with the constructive statement made by the chairman of the committee, and thank him for the attention he has paid to this matter.

Mr. JACKSON. Mr. President, I wish to thank the distinguished Senator from Idaho for his kind remarks. I too share his optimism that we will be able to get together with all of the interests in the Northwest that are concerned with the problem, so we can have an effective agreement which will protect the power users and one that will provide for the water users a sensible irrigation and reclamation program in the Columbia Basin.

Mr. President, I now move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the House amendment was concurred in.

Mr. JORDAN of Idaho. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR PACKAGING AND LABELING ACT

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. HRUSKA. Mr. President, the pending business is the consideration of S. 985, the so-called truth-in-packaging bill. In due time, as has already been announced, a motion will be made to commit the bill to the Judiciary Committee for consideration of its antitrust aspects and implications.

I shall now outline some of the principal points that in my judgment argue well for the wisdom of pursuing the course of action outlined in the motion, in order that we may take the proper course to avoid substantial and burdensome difficulty in the future.

The packaging bill has been reported to the Senate by the Commerce Committee. Earlier versions of the bill, which were drafted in prior sessions of Congress as an amendment to the Clayton Act, were referred to the Judiciary Committee.

The present bill, S. 985, as originally introduced, was essentially the same as the earlier proposals. In this Congress, however, the bill was referred to the Commerce Committee.

My discussion at this time is particularly concerned with those provisions of S. 985, as reported, which appear to create potentially serious antitrust risks for industry members seeking to comply with the proposed legislation.

For example, in section 5, paragraph (d), we find this provision: If the promulgating authority determines "that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall * * * (2) promulgate * * * regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity shall be distributed for retail sale."

Section 5, subsection (e) and (f), provide that:

Any producer or distributor affected by the above provision may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity under the procedures for the development of voluntary product standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901. No regulation as to weights or quantities may vary from any voluntary product standard. § 5(e), (f).

Then, in section 11 of the bill this language is found:

Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—the Federal Trade Commission Act or any statute defined therein as an antitrust Act. § 11.

These provisions, when considered together, may raise serious questions of potential antitrust liability for those who participate in the development of voluntary product standards, as shall be shown below.

As a matter of sound legislative procedure, therefore, S. 985 should be considered by the Senate Judiciary Committee and in turn by the Antitrust and Monopoly Subcommittee.

As recognized by numerous antitrust decisions, a voluntary standard would bring about an industrywide standardization of products which could facilitate price uniformity and price matching supporting an inference of price collusion or price conspiracy in violation of the antitrust laws.

Accordingly, if the voluntary standardization aspects of S. 985 are desirable, the bill should contain a specific anti-

trust exemption covering industry members' participation in the development of voluntary product standards.

I suggest that the word "voluntary" should be in quotation marks because, certainly in my own mind, there is some question whether that is the true nature of it, considering the manner in which they must be developed under the terms of the pending bill.

At the very least, the committee with experience and jurisdiction in these matters, the Judiciary Committee, should evaluate the need for such an antitrust exemption, and formulate the text of an appropriate exemption.

Significantly, the Justice Department, in its comments on S. 985, has correctly recognized that "standardization could, in some instances, be an anticompetitive factor." The letter of Deputy Attorney General Ramsey Clark, from which I just quoted, is to be found on page 12 of the transcript of hearings of the Committee on Commerce. It reads in part as follows:

We note that section 3(c)(1) authorizes the promulgation of regulations to establish reasonable weights or quantities in which commodities shall be distributed for retail sale. Since standardization could, in some instances, be an anticompetitive factor, the provision appropriately confers a discretionary authority which, in its exercise, may take into account the impact of any such regulations on competition.

Thus, a red flag is raised by the Deputy Attorney General that the type of standardization called for by the bill could in some instances be an anticompetitive factor.

This express recognition by the Justice Department matched with the clear language of section 11 that the bill does not "repeal, invalidate, or supersede * * * any * * * antitrust Act," clearly demonstrates that this bill should now have its antitrust implications reviewed and evaluated by the Judiciary Committee.

There are several reported antitrust cases which hold that product standardization programs by industry groups become vulnerable under the antitrust laws as an element of a conspiracy to restrain trade.

In *Milk and Ice Cream Can Institute v. FTC*, 152 F. 2d 478, 482 (7th Cir. 1946), one of the leading cases, it was held that a product standardization program was part of an antitrust conspiracy to restrain trade, held to be in violation of the Federal Trade Commission Act. As the Court noted in its opinion, in part:

Much is said by petitioners concerning their claim that milk and ice cream cans are a standardized product. From this it is argued that uniformity of price was a natural rather than an artificial result. An argument of this kind has some merit as to certain products, such as sugar, salt, oil, etc., where the product from its nature is standard. We doubt, however, if there is any merit in the contention that a can is in such a category. We think it is true that they were standardized in the instant situation, but this was the result of the activities of the Institute and its members. In fact, there was a continuing effort and urging on their part that the cans be manufactured in uniform classifications. *It may be, as argued, that much of this effort was to comply with various governmental regulations and for health purposes, but the fact still remains that it was*

easier to reach the goal of uniform prices on a standard product than on one which was not. The meticulous effort disclosed by the record by which petitioners standardized their products is also a strong circumstance in support of the Commission's finding that their activities were the result of an agreement. 152 F. 2d at 482.

Similarly in *C-O-Two Fire Equipment Co. v. United States*, 197 F. 2d 489 (9th Cir.), cert. denied, 344 U.S. 892 (1952), the court found a price fixing conspiracy for fire extinguishers, violating section 1 of the Sherman Act, involving the element of product standardization.

The court of appeals declared:

The standardization of products among the four defendant corporations named in the indictment is pointed to by [the Department of Justice] as another plus factor in the chain of circumstances that points to the conspiracy alleged.

It is the contention of [defendants] that this standardization and substantial identity of product serves to explain the admitted price uniformity in the industry during the pertinent period. We think, however, that such standardization of a product that is not naturally standardized facilitates the maintenance of price uniformity.

The [defendants] seek to rebut such conclusion and any inference of combined action that may arise therefrom with the testimony of their witness, Allen, that "we are required to meet standards set up by the Underwriters Laboratories in this respect, that we are required to put out certain sizes in order to obtain certain ratings. . . ." This evidence may well explain the artificial standardization in regard to size. But we can well understand why the trial judge was unable to accept Mr. Allen's testimony as a satisfactory explanation for the similarity in color and other physical characteristics among the extinguishers manufactured by the different corporate defendants. [Defendants] make no effort to explain why these products, although manufactured by different companies, and formed of components manufactured by different companies, were indistinguishable save for their respective labels. 197 F. 2d at 493.

Mr. President, I call attention to the fact that here was an effort to comply with the standards set forth by the underwriter laboratories in order to achieve certain ratings. To all appearances, that was a perfectly legitimate objective. The court turned them down, and a case was found for violation of section 1 of the Sherman Antitrust Act.

Again, in *Bond Crown and Cork Co. v. FTC*, 176 F. 2d 974, 977 (4th Cir. 1949), an FTC finding of a conspiracy in restraint of trade by manufacturers of bottle caps was affirmed, including supporting evidence of a product standardization program.

Thus, the court declared:

In the opinion of the Commission, there is a direct connection between this understanding and the admitted efforts of the respondents to standardize their products to such an extent that a prospective purchaser would have no choice in the realm of coloring, lettering, and decorations as between the products of any two manufacturers. 176 F. 2d at 977.

Product standardization programs were also found to constitute elements of illegal price-fixing conspiracies in re-

straint of trade in *Association of Coupon Book Manufacturers*, 45 F.T.C. 219 (1948) involving a trade association setting of uniform prices and standardized products for tickets, checks, and coupons, and in another case, *Electrical Alloy Section of National Electrical Manufacturers Association*, 36 F.T.C. 336 (1946)—involving a trade association fixing uniform prices and standardized products for electrical alloy resistance wire.

In light of these cases—and there are others—any procedure which involves industrywide efforts by firms aimed at product standardization inevitably faces potentially serious antitrust risks unless it is specially exempted from the antitrust laws.

This is not to say that every product standardization effort will be condemned as an antitrust violation. Rather, the point is that such industrywide standardization efforts create a degree of antitrust risk to which business firms seeking to comply with one aspect of S. 985 should not be gratuitously exposed.

In this field of antitrust, there is sufficient exposure to prosecutions—and in some cases, as some litigants believe, persecutions—and we should not add unnecessarily to that risk and that hazard.

(Mr. HART assumed the chair as presiding officer at this point.)

Mr. HRUSKA. In sum, if the pending bill, S. 895 is considered by the Antitrust Subcommittee that body's long experience with the problems of antitrust would enable it to evaluate the nature of the antitrust problems inhering in the bill, and to draft whatever provisions are necessary to deal with the situation fairly.

Certainly, under the able chairmanship of the senior Senator from Michigan, they will have good guidance and good leadership in whatever action they undertake.

I might say, Mr. President, that consideration of these antitrust aspects must be carefully done. It cannot be achieved by amendment on the floor, by simply saying, for example, we will eliminate section 11, which now preserves the application of all antitrust laws, whatever they may be, and provide that these situations are exempted from the antitrust law. Anyone who has more than a casual exposure to the field of antitrust law is well aware that it is an extremely technical area, with implications sometimes far beyond those which can be immediately envisioned upon first examination.

So we would be ill advised to try to amend the bill on the floor in an attempt to exempt these activities from the antitrust law. It has already been suggested, and I subscribe to the idea, that not only must this bill be referred to the Judiciary Committee for its attention, but that that committee would do well to call for testimony from the Attorney General, if need be; certainly from the head of the Antitrust Division of the Department of Justice; and also from the Federal Trade Commission, which is charged with the enforcement of a goodly portion of the statutory antitrust laws which this Nation has as part of its policy.

Such a proper consideration of the antitrust dangers inhering in the packaging bill is no less essential for the affected industry members in this industry than for the members of the banking industry who received a special antitrust exemption for assisting in the President's international balance-of-payments program, with which we had contact last year.

When President Johnson, on February 10, 1965, proposed a program calling for members of the banking community voluntarily to limit their lending abroad, he commented:

Cooperation among competing banking interests could raise problems under the antitrust laws and, if extended beyond measures essential to our balance-of-payments objectives, would damage our competitive system.

Therefore, I request the Congress to grant a statutory exemption from the antitrust laws to make possible the cooperation of American banks in support of our balance-of-payments objectives. I request also that the legislation require that the exemption be administered in ways which will not violate the principles of free competition. 1965 U.S. Code Cong. & Ad News, 3062.

It was in 1965 that the Subcommittee on Antitrust and Monopoly Legislation and also the Committee on the Judiciary processed this bill at the request of President Johnson. On September 9 of last year it became Public Law 89-175. In part, it provides expressly as follows:

When the President finds it necessary and appropriate to safeguard the United States balance of payments position, he may request persons described in section 1 to discuss the formulation of voluntary agreements or programs to achieve such objective. When such a request is made, a notice shall be promptly published by the President in the Federal Register, listing the persons invited to attend and the time and place at which the discussion is to be held. If the President makes such a request, no such discussion nor the formulation of any voluntary agreement or program in the course of such discussion shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. §2(b).

This statute goes even further and provides procedural safeguards whereby meetings are presided over a Government official and a verbatim transcript kept.

One purpose this served was that of allaying the fears of those who are opposed to the addition or to the enlargement of the list of exemptions from the antitrust law. They were afraid that advantage would be taken from this exemption, and that actions which would be contrary to the antitrust policy of the country might transpire.

An added safeguard was provided; namely, a calendar limit beyond which this exemption will not apply. That is, at the end of a specified period, this specific exemption that was created would expire by its own provision.

Thus, in the case of the banking industry, where the Government asked for industry participation in connection with the balance-of-payments problem, it was thought necessary by the President, by American bankers and international bankers and international lending agen-

cies, by the Department of Justice, and by Congress to have an antitrust exemption for that activity.

Similarly, S. 985, in an important part of its regulatory scheme, contemplates industry participation in the development of voluntary product standards.

There are instances when certain Federal agencies may participate in the proceedings, just as the Treasury Department would have participated in the proceedings with reference to international bankers and international lending agencies.

But the bill before us, S. 985, establishes no antitrust safeguards, and specifically and expressly provides that nothing in the act is to supersede or avoid the application of the existing antitrust laws.

I have already read the text of section 11. I shall read it again, Mr. President, because I think it is important to remember this text.

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

- (a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;
- (b) the Federal Food, Drug, and Cosmetic Act; or
- (c) the Hazardous Substances Labeling Act.

It is clear that this situation raises substantial issues under the antitrust laws. For that reason the Senate should not act on the bill until the Committee on the Judiciary has had an opportunity to consider its antitrust implications. The opportunity for the Senate to take action in that regard will come when the motion of the minority leader is made to refer the bill to the Committee on the Judiciary.

The motion will be made in due time. The remarks I have made will be in the RECORD for the consideration of Senators and interested people to show the very solid and inescapable foundation that has been laid, which necessitates favorable action on the motion. This we must do if we are to refrain from thrusting an important and substantial portion of our economy into great and constant danger, because it will never know when someone in the Antitrust Division will not wake up for one reason or another, or for no reason, subject it to burdensome and hazardous litigation.

That grave problem can be avoided by referring this to the Committee on the Judiciary. In due time, it would be referred to the Subcommittee on Antitrust and Monopoly. We shall process it in the best way we can and bring it back to the floor for proper consideration.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PELL in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARTKE. Mr. President, the Shelbyville, Ind., News on May 26 pub-

lished an editorial dealing with the bill over which we have struggled so long in the Commerce Committee and which is now before us for consideration.

I voted for the bill in committee, and I intend to vote for it in the Senate. I would have preferred to see certain amendments I offered incorporated in the bill, but the Shelbyville paper correctly quotes my view that this is "a fair position for both the public and the manufacturers," even though it may not be all that either desired.

Mr. President, I ask unanimous consent that this editorial may appear in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

TRUTH IN PACKAGING

According to Indiana's U.S. Senator VANCE HARTKE, the proposed Fair Packaging and Labeling Act, commonly referred to as the "Truth in Packaging" bill, will protect the consumer without placing an undue burden upon the reputable processor of foods, cosmetics, detergents and similar commodities.

The Senate Commerce Committee, of which HARTKE is a member, voted favorably on the bill the other day. The much-debated legislation would place policing powers for food products with the Food and Drug Administration, and non-food items with the Federal Trade Commission.

"I think we have reached a fair position for both the public and the manufacturers in backing President Johnson's insistence on fair weights, measures and labeling," HARTKE commented. "The object of this bill is in the public interest, to make it possible for the shopper to make valid comparisons of price and content, quality and quantity."

Paraphrasing current advertising, HARTKE said:

"The American consumer has developed an All-New, Low-Low Poly-Unsaturated disgust with misleading packaging claims.

"The 'Truth in Packaging' bill now coming before the full Senate for approval is a Giant Family-Size effort to allow Mrs. Homemaker to cut through this never-never land and make the best possible choices for the money she spends."

We hope the bill is just what Sen. HARTKE says it is.

Personally, we do not like to see more Federal Government intervention in private business. But we're sure that the vast majority of housewives and others who purchase commodities covered in the bill sincerely object to the confusing and sometimes misleading labeling to be found on too many packaged items. If the new legislation places something of a burden upon the manufacturer, that burden could hardly be as great as that placed upon the consumer as well as the retailer by labeling which leaves much to be desired.

U.S. DISTRICT COURT OF EASTERN MICHIGAN

Mr. HART. Mr. President, in the current issue of Time magazine dated June 3, 1966, an article commends in deservedly high language the Federal District Court for the Eastern District of Michigan.

All of us like to believe that the quality of justice which is available in the regions from which we come is high. I have felt this with respect to the Eastern District of Michigan for many years, but I am delighted that Time magazine should bring the quality of this court to the attention of the Nation.

I am delighted that deserved recognition is paid to Judge Wade H. McCree, Jr., in a comment at the conclusion of the article.

Because of the pride that I take in the court and its members, I ask unanimous consent that the article be printed in full at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The U.S. court in downtown Detroit has the familiar grey Government air. Lawyers match wits in somber courtrooms, jurors try to understand, defendants try to look innocent. But there is one big difference. Detroit's federal district (trial) court handles 90% of its criminal business without the help of a single U.S. commissioner—the federal magistrates who man the front line of federal criminal justice. Despite this fact, the Detroit court is among the best run in the U.S.

Elsewhere, 700 U.S. commissioners issue warrants, set bail; and determine whether there is probable cause to hold an accused person pending grand-jury action. Most of them can try petty cases and mete out sentences up to six months. Yet 30% of the commissioners are not lawyers; all are paid only by fees (annual maximum: \$10,500) that impoverish the able, particularly among fulltime commissioners, and tempt the greedy to issue shaky warrants. The system is now under fire in Congress.

25¢ to Freedom. Perhaps the best argument against the commissioners is that the eight pioneering judges of the U.S. District Court of Eastern Michigan have done so well without them. Twenty years ago, the Michigan court's Detroit branch banished commissioners because they had become too chummy with bail bondsmen; worse, they often went easier on the clients of crony lawyers, while hiking bail astronomically in response to public pressure whenever grisly crimes hit the headlines.

As a result, despite an increasing flood of federal cases, the Detroit judges themselves took over the commissioners' jobs, a move that has notably improved and speeded up justice. In setting bail, the judges now seek to release as many defendants as possible before trial—regardless of their ability to satisfy the tough requirements of security-minded bondsmen. The practice is not only in line with the law's presumption of innocence until a guilty verdict, it also enables defendants to hire better lawyers and help prepare their own cases, to say nothing of saving taxpayers the cost of keeping them in jail.

In the Detroit court, if relatives or friends agree to pay the amount set as bail should the defendant take it on the lam, the defendant may be released in the custody of those relative or friends—or even of himself. No cash is lodged with the court.

Idealistic as it may seem, the system is eminently practical. In 1964, the last year for which records are available, 84% of all the court's criminal defendants were released on personal recognizance. Although they were charged with everything from bank robbery to narcotics offenses, only 1% of that group failed to show up in court. What makes those figures all the more spectacular is that the Detroit court is a mere ten-minute, 25¢ bus ride away from the tempting possibility of sanctuary across the Canadian border.

Co-Op Sentencing. The Detroit court has also proved its enlightenment in one of the law's darkest areas: the wildly disparate sentences that different judges hand out for the same offense (TIME, Dec. 31, 1965). Chief Judge Theodore Levin organized "a sentencing council" five years ago. Made up of three judges and three probation officers, the council meets weekly to review every trial

judge's forthcoming sentences. Each judge proposes his sentence, and the others suggest increases or decreases or shifts in emphasis. No judge is required to accept any of the advice. But all act together, and they have achieved what they call "uniform philosophy" if not uniform sentences. One result is that Detroit now leads all federal district courts in the use of indeterminate sentences that give well-behaved prisoners an earlier crack at parole. Impressed, district courts in Illinois and New York are trying similar systems.

Key to Eastern Michigan's progress is the cooperation among the eight judges. Led by Chief Judge Levin, who is Jewish, the court is a diverse group that includes four Roman Catholics, two Protestants and a Unitarian Universalist—Judge Wade McCree Jr., a Negro whom many consider to be the most likely of his race, after Thurgood Marshall, to reach the Supreme Court. If he does, he will take with him some exceptional experience in the art of keeping cases moving. So efficient is the Eastern Michigan court that the backlog on its docket is just about the smallest of any major federal district court.

INSPECTION OF ANIMAL FACILITIES

Mr. CLARK. Mr. President, within the last 10 days, newspapers throughout the country have published editorials in support of the Monroney amendment to S. 2322, the animal welfare bill which the Senator from Washington [Mr. MAGNUSON] and I introduced in the 1st session of the 89th Congress.

The Monroney amendment would restore to the bill the provision for inspection of care and housing for research animals in the laboratory prior to the time of experimentation.

I am in complete agreement with these editorials, Mr. President and ask unanimous consent that they be printed in the RECORD. They were published in the New York Times, the Washington Evening Star, the Boston Globe, the Sacramento Bee, the Waco News-Tribune, the Christian Science Monitor, the Philadelphia Bulletin, and the Washington Post.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post]

OBLIGATION OF HUMANITY

Anyone with a modicum of imagination and a modest reservoir of the milk of human kindness in his makeup must feel distress if not indignation at current disclosures of the treatment sometimes accorded animals used in scientific research. Sometimes family pets are stolen for sale to laboratories; sometimes animals are kept in cramped cages too small for them to stand in; sometimes they are denied adequate food or water while awaiting experimentation. Scientific research is not advanced in the slightest degree by such callous cruelty. Human decency and dignity are affronted by it.

The Senate Commerce Committee is now considering legislation to forbid this kind of savagery. It should be stronger legislation than that passed by the House, which limits its protection to animal dealers—and to dogs and cats. Cruelty ought to be prevented in laboratories as well—and it ought to be prevented in connection with all living creatures. The welfare of humanity is debased, not advanced, by purposeless brutality springing from callousness or neglect or niggardly pennypinching. Humane treatment of dumb animals is a hallmark of humanity.

[From the Philadelphia Inquirer, May 20, 1966]

LAST CHANCE FOR TOUGH "DOGNAP" BILL

The waning hopes of animal lovers for Federal legislation that really goes after the brutal and disgusting trade of "petnapping" now are pinned on a public hearing before the Senate Commerce Committee next Wednesday.

The Committee was ready to approve a measure with \$1,000 fines and a year's imprisonment for violators when it yielded to what has been described as a "cry of anguish" from State universities and medical researchers because the bill included humane treatment of experimental animals in laboratories as well as supply kennels.

The principal witness next week is expected to be Dr. James A. Shannon, director of the National Institutes of Health. It is to be hoped that one of the points he will cover, in this connection, is how any laboratory that is not operated humanely and decently, can hope to produce any worthwhile results from its work.

The Senate is the last hope of those who vigorously protest having dearly loved family pets stolen and subjected to miserable, painful ends. The House-passed measure imposes only civil sanctions which amount to little more than a license to torture, according to humane society authorities, and includes no reference at all to laboratories.

As the Pennsylvania SPCA recently informed its members, the unspeakable horrors of some "dog farms" in this State are far from conquered yet, in spite of recent, stiffer legislation passed in Harrisburg.

We believe the Senate has a duty to show some conscience and some enlightened humaneness in the matter, since the House has failed. Many eyes and ears will be focused on that hearing next Wednesday.

[From the Sacramento (Calif.) Bee]

CONDEMNED DESERVE CONSIDERATION

After stalling for years, the United States Congress was beginning to make smoke, so the expression goes, on legislation to demand more humane conditions for animals destined for laboratory experimentation.

Then along came the National Institute of Health with a so-called "compromise" plan which talks a good regulation line but which leaves wide loopholes, lack of policing and opportunity for continued abuse of animals.

Congress should ignore the NIH with its belated attempt at emasculation and proceed to consider, and pass, measures which set up strict demands for the care and recruitment of such animals.

Exposés of barbaric treatment of animals in laboratory experimentation and of the bootlegging of animals for that experimentation have left many sickened, repulsed.

There have been pictures of starving dogs feeding on the entrails of starved dogs, their only shelter packing crates too small to protect them from winter blasts.

There have been pictures of the filth in temporary and permanent custodial centers for dogs intended for laboratory use.

There have been pictures of outrageous experimentation without the slightest consideration given to the pain and to the discomfort of the dumb creatures sacrificed up in the name of research.

No one suggests that experimentation cease. This research is essential to fighting human and animal affliction. It is a lamentable, but a justifiable, sacrifice.

The plea, rather, is that society owes to these condemned animals the consideration of adequate and sanitary shelter and diet and the most humane conditions possible in the actual research.

Surely anything less than this cannot be considered by Congress and could not be accepted by a society which has become more than disturbed over the inconsideration of the few.

[From the Washington (D.C.) Evening Star, May 26, 1966]

THE ANIMAL CRUELTY BILLS

Congress at last is headed toward enactment of a law to require humane treatment of animals used in laboratory research and to halt thefts of pets by dealers supplying this market.

At the eleventh hour, however, a snag has been encountered in the Senate Commerce Committee. Medical researchers, hostile to government supervision (but not government grants, it should be added), are attempting a switch play. A bill introduced by Senator HILL of Alabama would head off federal inspection of how laboratories treat animals awaiting experiments. Instead this authority would be given to a private group.

The medical men, in fact, have such a group all ready and waiting. Set up last year, it is called the American Association for Accreditation of Laboratory Animal Care. Its members are of the establishment; all are staff members of medical schools and research institutions. And, as the association's brochure suggests, the "inspections" would be rather friendly affairs.

There would be no surprise audits, such as those routinely carried out now in the banking industry, for example. Instead a visit would be scheduled by "mutual convenience." It would not come distressingly often—no more than once every five years. The inspectors, according to the brochure, would charge fees ranging up to \$1,000 for their trouble.

If the laboratories are in fact treating their animals humanely, they should have nothing to fear from a proposal by Senator MAGNUSON of Washington that such inspections be made by the Department of Agriculture after standards have been published. His bill has nothing to do with the anti-vivisectionists; the government would not interfere with any laboratory tests or operations.

Certainly the public should not be deluded into thinking the Hill proposal represents any kind of adequate substitute for impartial inspection of such institutions.

[From the New York Times, May 23, 1966]

PROTECTING RESEARCH ANIMALS

The Senate Commerce Committee has scheduled additional hearings this week on the difficult problem of drafting legislation to protect the hundreds of thousands of animals used each year for medical research.

The House of Representatives has already passed a bill—limited to dogs and cats—requiring that the Department of Agriculture license and inspect dealers who sell these animals to laboratories. Representative JOSEPH Y. RESNICK of New York and others interested in this problem have presented distressing evidence that some dealers have failed to provide adequate food and water or sufficiently large pens for these animals. As a result, many animals have died or suffered needlessly without serving any medical purpose whatever.

The controversial question before the Senate committee is whether the Federal standards should also apply to laboratories in the period before and after the actual experiments. In our view, this is a reasonable requirement. It would be desirable to extend the coverage of the bill to include monkeys, rabbits, and other vertebrates.

The pending bill in no way regulates animal experiments, but many respected doctors vehemently oppose Federal supervision of animal facilities in laboratories because they view it as the first step toward Government controls over the conduct of experiments. As we have stated in the past, we believe it would be possible to devise criteria affecting the duration and painfulness of experiments without stifling research. However, that question does not arise under the pending bill, and Congress at present shows little dis-

position to consider it. On its own merits, a bill to regulate the facilities for animals before and after the experiments deserves enactment.

[From the Boston Globe, May 15, 1966]

A NATIONAL SCANDAL

Animal experimentation is here to stay. It is essential to the advancement of medical science and education. The nation's laboratories, many of them literally subsidized by the Federal government, contain some 30 million mice, 12 million rats, 1 million guinea pigs, 500,000 hamsters, 500,000 rabbits, 425,000 dogs and 150,000 cats—one animal for every four Americans.

Some of the experiments done are undeniably painful. This is a grim necessity, the anti-vivisectionists notwithstanding.

But it is scandalous that many of the animals used by the experimenters, especially dogs and cats, are household pets stolen by unscrupulous animal dealers or their suppliers. According to the Humane Society of the United States, theft accounts for one of every two missing cats and dogs.

It is equally scandalous that many experimental animals are cruelly and needlessly mistreated by dealers and by laboratory operatives prior to, and following, actual experimentation.

Some dealers permit their animals to exist under concentration-camp conditions, deprived of food and water for long periods of time, brutally mishandled, the sick and the well mixed together in filthy, crowded shacks and pens.

In some laboratories, the handling of animals before and after experimentation is scarcely less callous.

"In my 20-odd years as a laboratory worker," Dr. Morris Goldman of Washington has said, "I've never heard a director caution his people on humane treatment of animals, although I have seen examples of outright cruelty practiced by senior investigators or their assistants."

Legislation to wipe out pet thievery and unnecessary cruelty to experimental animals is pending in Congress. The Senate Commerce Committee has before it an excellent bill, Senate Bill 3059, which would (1) license animal dealers, (2) set humane standards for care of all species of animals on dealers' premises and in laboratories, (3) withdraw Federal funds from laboratories if they fail to comply, and (4) provide for revocation of dealers' licenses if they are found guilty of cruelty or theft.

An identical bill was heard last Fall by the House Agriculture Committee, which severely narrowed its scope by limiting its coverage to cats and dogs and by exempting laboratories from the necessity of complying with humane treatment standards to be established by the Department of Agriculture. This watered-down measure was passed by the House on Apr. 28 by a wide margin.

It is earnestly to be hoped that the Senate Commerce Committee will report, and the Senate adopt, a stronger bill than the one passed by the House. There is no reason why laboratories liberally subsidized with Federal funds should not comply with Federal standards for the humane treatment of animals before and after actual experimentation.

[From the Christian Science Monitor, May 24, 1966]

PROTECT ANIMALS, NOT LABORATORIES

The idea of self-policing, dubious at best, and never to be trusted in a group where offenders are in the majority, has raised its menacing head in the area of the much-needed laboratory-animal legislation.

Sen. LISTER HILL (in whose Labor Committee the excellent Clark bill, S. 1071, has been pending for six years with no action) introduced on May 10, S. 3332. This bill would put the decent treatment of laboratory ani-

BICENTENNIAL OF THE AMERICAN REVOLUTION

Mr. CLARK. Mr. President, in 1976 we will observe the 200th anniversary of the American Revolution. President Johnson has asked the Congress to create a commission to plan an appropriate celebration, and the senior Senator from Mississippi [Mr. EASTLAND] introduced Senate Joint Resolution 162, which will accomplish this end. All Americans, I am sure, want to make this a meaningful and dignified occasion. A number of very good ideas have come forth already.

I ask unanimous consent to insert in the RECORD a very thoughtful resolution by the Communication Workers of America on the celebration.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION 27A-65-18: BICENTENNIAL ANNIVERSARY OF DECLARATION OF INDEPENDENCE

The signing of the Declaration of Independence on July 4, 1776, not only marked a turning point in the history of the nation which has since become the United States of America, but it also marked a decisive and dramatic moment in the history of the entire world.

The ringing words of this famed document signaled the call to arms which led to the founding of a new and great nation. It also sounded the death knell for the long era of colonial expansion in the Western Hemisphere by the nations of Europe. Even today, the historical process begun on July 4, 1776, is continuing in other parts of the world where old colonial structures are crumbling and new dynamic countries are being born.

In a few years we will have reached the 200th anniversary of the signing of the Declaration of Independence. It would be fitting that the year 1976 be devoted to a year-long observation of the bi-centennial anniversary of this important date in world history.

Like the Magna Carta, the Declaration of Independence is a document revered throughout the world. We would do well to show the world that its words are deeply honored today in the nation in which it was signed nearly two centuries ago.

This nation recently gave impressive observation to the centennial anniversary of the Civil War. Countless new histories and studies of this period were published. Battles were re-enacted. Fitting ceremonies were held at such places as Gettysburg and Appomattox.

These observations, which were well-planned and coordinated, made an important contribution to our awareness and understanding of that chapter in our nation's history.

A carefully planned bi-centennial observation of the signing of the Declaration of Independence, could serve a similar and equally important function, reminding the entire world of the nation's revolutionary heritage through which our freedom was won and our nationhood was established.

The full-scale observation of this 200th anniversary will require much study and preparation. Although the anniversary is still eleven years off, it is by no means too early to begin laying the groundwork for its observation. Therefore, be it

Resolved: That this 1965 Convention of the Communications Workers of America urges that plans and study begin as soon as possible to prepare for the 200th anniversary of the signing of the Declaration of Independence.

CWA firmly believe a nation-wide campaign to win Congressional approval for the establishment of a Commission to undertake this important project is in order.

As loyal, patriotic and proud Americans, the members of this Union pledge themselves to play their part in such a program so that this important historical anniversary will receive the honor it so richly deserves.

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO MONDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon, it stand in adjournment until 12 o'clock noon Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR PACKAGING AND LABELING ACT

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. HART. Mr. President, when the American consumer steps into the supermarket and swings his cart into the aisle, he is undertaking a job that at first blush seems simple enough: He wants to buy the maximum amount of what he wants and needs at the lowest possible price.

The shopper, in short, is seeking value. And if he is frugal enough to look for it, he deserves to find it.

But the job is not an easy one. As any experienced shopper can testify, that supermarket aisle can be a gauntlet of deliberate confusions, psychological traps and—sometimes—outright deceptions.

This bill is aimed at eliminating some of those confusions, at simplifying the consumer's job by helping him find value without eyestrain and with a minimum of brain-twisting computations.

In this sense, it is a modern day weights-and-measures bill.

No longer do we walk into a store and ask a salesman to make us up an order of so much sugar, so many crackers, and this many scouring pads.

Goods are prepackaged and we either accept the weights and measures in which they are offered or we do not buy. And the package is the only salesman we encounter. Certainly, the package should be required to supply precise information as to the weight and nature of its contents.

This bill, in short, is designed to correct the commonplace packaging practices that tend to make rational shopping

decisions difficult most of the time and impossible some of the time.

This view of packaging practices is my opinion based on 3,036 pages of hearing record. But it is not my opinion alone.

It is corroborated by the 10,000 letters I have received on the subject—about 90 percent of them favoring corrective legislation. These letters, in fact, further document the practices the bill seeks to correct.

It has been further corroborated by two impartial packaging experiments, one in California and one at Eastern Michigan University.

These studies developed one especially interesting point: the "hidden inflation" that can—and does—result from packaging confusions.

We have seen example after example of how package design and size is used to disguise a diminished content. Product weights often can be dropped a few ounces without a change in the box size or price.

The original bill carried a provision to allow regulation of package sizes and shapes that exaggerate the true content amount. This provision was eliminated in committee discussions—and give and take—unfortunately, I think, because it could have provided a useful tool in insuring the honesty of that "package salesman."

It is true, however, that the big-box, small-content device was often accompanied by a very obscure net weight designation. Clearly, the shopper would have greater difficulty in detecting diminished content if the net weight were printed in tiny type on the bottom of the box or printed, say, in silver type on aluminum foil.

The practice of obscuring net weight will be corrected in the bill now before the Senate—and effectively. The bill would require the weight designation to be printed clearly, prominently and in simplified form. Yet, it is regrettable that all possible tools are not being brought to bear on the problem.

Certainly, the labeling features of this bill will still be a great help to the consumer. The cost of living index indicates a rise of about 6 percent in food costs each year. If a frugal housewife, enabled to spot value more easily, can save even the same percentage on her food bill, then we will have created an effective anti-inflationary weapon.

However, the core of this bill is composed of sections 5 (d), (e), (f), and (g), relating to the establishment of weights and measures. The amendment offered by the able senior Senator from New Hampshire [Mr. COTTON] would remove this core.

These sections give no authority to regulate package shape or dimension, but would allow the establishment of weights and measures in which a product line could be sold.

It must be emphasized that this provision could only be activated on a product-line basis. Clearly, it would make no sense to set the same weights and measures for potato chips as for tinned tomatoes. And in each case, the

need for regulation must be established at a hearing.

But let me explain the necessity of these provisions.

First of all, I have already said that today's weights and measures are established by the package. And where weights and measures get out of hand, the smartest shopper in the world would have difficulty in making price comparisons among competing products, no matter how clear the labeling.

Making price comparisons of competing products would be relatively simple if they came in pound, half-pound, and quarter-pound sizes even if the price was two for 17 cents or three for 25 cents.

But the computations are certainly compounded if each product is in a different weight and some of those weights involve fractional ounces.

Because the shopper's task is to find a comparable unit of measurement, some common denominator of weight must be computed. This means that today the cost must be broken down into price per ounce.

For instance, let us say we want to buy instant coffee. There are 12 different weights on the shelf, all within a few ounces of each other. There are also 12 different prices.

The shopper must compute the price per ounce through 12 separate calculations before making a price comparison. But let us say that all those jars, like regular coffee, were packaged in variations of half-pounds. Then the lowest priced coffee would be readily apparent.

You might not buy it because you preferred the taste of another brand but you would know exactly how much more you were paying for that taste.

I cited instant coffee but soaps and detergents would be just as difficult because of the scores of weights on the shelf.

On the other hand, the shopper buying liquor need only compare prices of the fifths. He need not divide ounces into price to get an idea of relative values.

But the housewife at the instant coffee section, if truly conscientious, might spend half her day figuring the best buy.

Of course, she does not. How could she? She has a roast in the oven at home. Other shoppers are jostling her with their carts. Her two youngest children have just disappeared behind the meat counter.

The inevitable result is that she throws up her hands and just guesses at the best buy. And this, obviously, adds to her food costs.

Now, would this section work special hardship on the food industry? I think not.

The bill's extensive safeguards would guard industry against even the most zealous and arbitrary administrator, in the unlikely event that such an administrator would appear.

Before a standard can be established in any product line, a hearing must be held to determine whether the consumer ability to make price-per-unit comparisons among competing products is impaired. If such a determination is made the affected industry then may go to the Department of Commerce and apply for

a standard established under its procedures for development of voluntary standards.

Only if a standard could not be agreed upon, or, if agreed upon and the standard is not adhered to, could the promulgating authority proceed to the second stage of developing a standard which would be mandatory. Industry would then have an additional opportunity to present their views; further hearings would have to be held if an industry member requested it and appeal to the U.S. Court of Appeals is provided for.

Here you have layer on layer of procedural safeguards built in and, in my mind, the more legitimate concern and question is one asked by consumer groups: Is the administrator being so handcuffed that standards might take years to develop, if at all? If I thought so, I would not be supporting so strongly this legislation. But certainly the consumer has more reason for concern than the manufacturer.

However, these procedures are not the only protection the manufacturer has. No weights or measures can vary from a voluntary standard established under the provisions of this Act. Indeed all other voluntary standards are grandfathered in—including present can sizes. No weight or measure can be established under two ounces. This would, for instance, exempt candy bars sold through vending machines and small items where weight is relatively unimportant.

No weight or measure can preclude the use of packages already standardized by industry for packing related commodities of differing densities such as cookies, spices, or baby foods. In addition, returnable or reusable beverage containers now in use are grandfathered in.

Furthermore the Administrator, under explicit provisions of the bill must give due regard to the cost of the packaging of the commodities affected; the availability of any commodity in a reasonable range of package sizes to serve consumer convenience; the materials used for the packaging of the affected commodities; the weights and measures customarily used in the packaging of the affected commodities; competition between containers made of different types of packaging material.

The "excessive power" argument of the minority report hardly fits the procedures and safeguards I have outlined.

Nor is present law adequate to do the required job. A walk through a supermarket should convince anyone of this point.

Certainly, the manufacturers packaging the vast majority of products are not going to violate any laws. Yet price comparisons are still almost an impossible task.

The reason is that present law is aimed primarily at preventing fraud and deception in the common law sense. However, it makes little difference to the economy and consumer whether price comparisons are made difficult or impossible because of fraud, deception or only confusing practices.

The seller's intent is not the important point—the practice and its effect are. This explains, of course, why present law

is so inadequate to do the required job. The concern of existing law is with the occasional intentionally deceptive practice which has the capacity to deceive the consumer. And this bill is concerned with facilitating price comparisons, which is outside the purposes of the law now on the books.

The bill has been drafted to allow the promulgating authorities to reach these practices and at the same time gives them specific congressional directions as to how they must proceed and limits the areas in which they can act.

Some references have been made as to what the bill might cost the manufacturer. Changes in labeling cost only minimal amounts and no industry spokesman has suggested this would be prohibitive. All claims of excessive costs have been on the basis of what an Administrator might do under the reasonable weights and measures provision, under the most outlandish conditions.

As pointed out, the built-in extensive safeguards, the exceptions, the factors which must be considered in establishing regulations, all are guarantees that none of these strawmen will come to life.

The only actual cost studies of which I am aware related to manufacturers who use a standard container for related products of differing densities. And as the bill is now written, no weight or measure could be inconsistent with the amount of fill in such packages.

The bill has the strong and determined support of the President and of every major consumer group in the country. It also has received strong opposition from the food industry and its suppliers such as the canners. I believe strongly that much of this opposition was generated by provisions not now in the bill before us.

The present bill, with amendments made in the Commerce Committee, we believe, meets all the legitimate objections.

The original Truth-in-Packaging bill was introduced in September 1962 after long discussions with industry representatives and attorneys. In subsequent bills we have made at least 12 major changes. These changes were made not in the hope of getting votes but only to cut out those objections that seemed substantially valid.

The Commerce Committee has made additional changes.

I emphasize this point to make clear that as amended we have a bare-bones bill. To make further substantial changes, such as the pending cotton amendment, it seems to me, would sacrifice the purpose and intent of this legislation and give to the consumer and the administration more shadow, less substance. And the seven volumes of testimony make this field and this legislation as well explored—and the need as well documented—as any legislation I have seen in recent years.

For these reasons I urge favorable consideration of the bill and the defeat of the pending amendment.

I ask unanimous consent that a document relating to this matter be made a part of my remarks.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

Fourteen organizations representing 43 million persons have announced for the support Truth in Packaging bill.

These are:

AFL-CIO—13 million.

Cooperative League of the United States, an association of consumer-owned stores throughout the United States, representing 15 million family-owners.

Rural Electric Cooperative Association, representing 4,715,462 member owners of electric systems.

National Council of Senior Citizens, 2 million.

American Association of Retired Persons and National Retired Teachers Association—1 million persons.

National Council of Negro Women, 3,850,000.

Michigan Credit Union League, 1 million.

National Farmers Union, 750 thousand.

National Grange, 700 thousand.

National Federation of Business and Professional Women's Clubs, 175 thousand.

National Council of Jewish Women, 123 thousand.

American Veterans Committee, 25 thousand.

National Consumers League, 15 thousand.

A list of significant supporters also would include:

President's Advisory Council on Consumer Interests.

Special Assistant to the President for Consumer Affairs.

Secretary of Commerce.

Food and Drug Administration.

Federal Trade Commission.

Consumers Union, which reports the bill has brought more mail from readers of Consumers Reports magazine than any other in its 30-some year history.

National Federation of Independent Businesses, who polled their 150,000 members—all operators of small stores—and found them largely in favor of the bill.

State directors of weights and measures departments, 81 percent who were in favor of the bill in a poll conducted by the Weights and Measures Research Center.

Executive Committee of the National Association of State Departments of Agriculture.

Kansas Home Economists Association, an organization of 700 home economists who at a convention unanimously adopted a resolution in support of the bill.

Federation of Homemakers, a national organization with membership in all states.

Other groups which have gone on record in support of Truth in Packaging include:

Consumers Cooperative of Berkeley, Maryland Consumers Council, Association of California Consumers and the Harlem Consumers Education Council.

Colorado House of Representatives, which adopted a House Memorial in favor of the bill.

New York State Joint Legislative Committee on Consumer Protection which after intensive study is recommending adoption of a similar bill.

Cotton amendment take place at 4 o'clock on Wednesday afternoon next; that the Senate come in at 12 o'clock; that there be no morning hour; and that the time be equally divided between the Senator from New Hampshire [Mr. Cotton] and the chairman of the committee [Mr. Magnuson], or whomever they may designate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The unanimous consent agreement, as subsequently reduced to writing, is as follows:

Ordered, That on Wednesday, June 8, 1966, the Senate proceed to vote at 4 o'clock p.m. on the amendment offered by the Senator from New Hampshire [Mr. Cotton], No. 572 to S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Ordered further, That on that date, during further debate on the amendment (No. 572) the time between noon and 4 o'clock p.m. be equally divided and controlled by the Senator from New Hampshire [Mr. Cotton] and the Senator from Washington [Mr. Magnuson], or their designees.

BANK HOLDING COMPANY ACT AMENDMENTS OF 1966

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily, and that the Senate consider Calendar No. 1148, H. R. 7371.

The PRESIDING OFFICER. The bill will be stated by title, for the information of the Senate.

The LEGISLATIVE CLERK. A bill (H.R. 7371) to amend the Bank Holding Company Act of 1956.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

That subsection (a) of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)) is amended to read as follows:

"(a) 'Bank holding company' means any company (1) that directly or indirectly owns, controls, or holds with power to vote 25 per centum or more of the voting shares of each of two or more banks or of a company that is or becomes a bank holding company by virtue of this Act, or (2) that controls in any manner the election of a majority of the directors of each of two or more banks; and, for the purposes of this Act, any successor to any such company shall be deemed to be a bank holding company from the date as of which such predecessor company became a bank holding company. Notwithstanding the foregoing, (A) no bank and no company owning or controlling voting shares of a bank shall be a bank holding company by virtue of such bank's ownership or control of shares in a fiduciary capacity, except as provided in paragraphs (2) and (3) of subsection (g) of this section, (B) no company shall be a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a

reasonable basis, and (C) no company formed for the sole purpose of participating in a proxy solicitation shall be a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation."

Sec. 2. Subsection (b) of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)) is amended to read as follows:

"(b) 'Company' means any corporation, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, but shall not include (1) any corporation the majority of the shares of which are owned by the United States or by any State, or (2) any partnership."

Sec. 3. Subsection (c) of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended to read as follows:

"(c) 'Bank' means any institution that accepts deposits that the depositor has a legal right to withdraw on demand, but shall not include any organization operating under section 25 or section 25(a) of the Federal Reserve Act, or any organization that does not do business within the United States. 'District bank' means any bank organized or operating under the Code of Law for the District of Columbia."

Sec. 4. Subsection (d) of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(d)) is amended to read as follows:

"(d) 'Subsidiary', with respect to a specified bank holding company, means (1) any company 25 per centum or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such bank holding company, or is held by it with power to vote; or (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company."

Sec. 5. Subsection (g) of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)) is repealed.

Sec. 6. Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), as amended by this Act, is further amended by adding at the end thereof the following new subsections:

"(g) For the purposes of this Act—

"(1) shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company;

"(2) shares held or controlled directly or indirectly by trustees for the benefit of (A) a company, (B) the shareholders or members of a company, or (C) the employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company; and

"(3) shares transferred after January 1, 1966, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

"(h) The application of this Act and of section 23A of the Federal Reserve Act (12 U.S.C. 371), as amended, shall not be affected by the fact that a transaction takes place wholly or partly outside the United States or that a company is organized or operates outside the United States: *Provided, however*, That the prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country

UNANIMOUS-CONSENT AGREEMENT—LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the previous unanimous consent agreement relative to the Cotton amendment being voted on at 4 o'clock Monday be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the

that does not do any business within the United States, if such shares are held or acquired by a bank holding company that is principally engaged in the banking business outside the United States."

SEC. 7. (a) The first sentence of subsection (a) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended to read as follows: "It shall be unlawful, except with the prior approval of the Board, (1) for any action to be taken that causes any company to become a bank holding company; (2) for any action to be taken that causes a bank to become a subsidiary of a bank holding company; (3) for any bank holding company to acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than 5 per centum of the voting shares of such bank; (4) for any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or (5) for any bank holding company to merge or consolidate with any other bank holding company."

(b) The second sentence of subsection (a) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended by striking the words "except where such shares are held for the benefit of the shareholders of such bank" at the end of clause (i) and inserting in lieu thereof the words "except where such shares are held under a trust that constitutes a company as defined in section 2(b) and except as provided in paragraphs (2) and (3) of section 2(g)".

(c) Subsection (c) of section 3 of the Bank Holding Company Act of 1956 is amended to read as follows:

"(c) The Board shall not approve—

"(1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

"(2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

In every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served."

(d) Subsection (d) of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by striking the words "in which such bank holding company maintains its principal office and place of business or in which it conducts its principal operations" and inserting in lieu thereof the words "in which the operations of such bank holding company's banking subsidiaries were principally conducted on the effective date of this amendment or the date on which such company became a bank holding company, whichever is later." Such subsection is further amended by adding at the end thereof the following new sentence: "For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest."

SEC. 8. (a) Subsection (a) of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)) is amended to read as follows:

"(a) Except as otherwise provided in this Act, no bank holding company shall—

"(1) after the date of enactment of this Act acquire direct or indirect ownership or control of any voting shares of any company which is not a bank, or

"(2) after two years from the date as of which it becomes a bank holding company, or, in the case of any company that has been continuously affiliated since May 15, 1955, with a company which was registered under the Investment Company Act of 1940, prior to May 15, 1955, in such a manner as to constitute an affiliated company within the meaning of that Act, after December 31, 1978, retain direct or indirect ownership or control of any voting shares of any company which is not a bank or a bank holding company or engage in any business other than that of banking or of managing or controlling banks or of furnishing services to or performing services for any bank of which it owns or controls 25 per centum or more of the voting shares.

The Board is authorized, upon application by a bank holding company, to extend the period referred to in paragraph (2) above from time to time as to such bank holding company for not more than one year at a time. If, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years."

(b) Subsection (c) of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended to read as follows:

"(c) The prohibitions in this section shall not apply to any bank holding company which is a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, and such prohibitions shall not, with respect to any other bank holding company, apply to—

"(1) shares of any company engaged or to be engaged solely in one or more of the following activities: (A) holding or operating properties used wholly or substantially by any banking subsidiary of such bank holding company in the operations of such banking subsidiary or acquired for such future use; or (B) conducting a safe deposit business; or (C) furnishing services to or performing services for such bank holding company or its banking subsidiaries; or (D) liquidating assets acquired from such bank holding company or its banking subsidiaries or acquired from any other source prior to May 9, 1956, or the date on which such company became a bank holding company, which ever is later;

"(2) shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years from the date on which they were acquired, except that the Board is authorized upon application by such bank holding company to extend such period of two years from time to time as to such holding company for not more than one year at a time. If, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall extend beyond a date five years after the date on which such shares were acquired;

"(3) shares acquired by such bank holding company from any of its subsidiaries which subsidiary has been requested to dispose of such shares by any Federal or State authority having statutory power to examine such subsidiary, but such bank holding company shall dispose of such shares within a period of two years from the date on which they were acquired;

"(4) shares held or acquired by a bank in good faith in a fiduciary capacity, except where such shares are held under a trust that constitutes a company as defined in section 2(b) and except as provided in paragraphs (2) and (3) of section 2(g);

"(5) shares which are of the kinds and amounts eligible for investment by national banking associations under the provisions of section 5136 of the Revised Statutes;

"(6) shares of any company which do not include more than 5 per centum of the outstanding voting shares of such company;

"(7) shares of an investment company which is not a bank holding company and which is not engaged in any business other than investing in securities, which securities do not include more than 5 per centum of the outstanding voting shares of any company;

"(8) shares of any company all the activities of which are or are to be of a financial, fiduciary, or insurance nature and which the Board after due notice and hearing, and on the basis of the record made at such hearing, by order has determined to be so closely related to the business of banking or of managing or controlling banks as to be a proper incident thereto and as to make it unnecessary for the prohibitions of this section to apply in order to carry out the purposes of this Act;

"(9) shares of any company which is or is to be organized under the laws of a foreign country and which is or is to be engaged principally in the banking business outside the United States; or

"(10) shares lawfully acquired and owned prior to May 9, 1956, by a bank which is a bank holding company, or by any of its wholly owned subsidiaries."

(c) Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(d) With respect to shares which were not subject to the prohibitions of this section as originally enacted by reason of any exemption with respect thereto but which were made subject to such prohibitions by the subsequent repeal of such exemption, no bank holding company shall retain direct or indirect ownership or control of such shares after five years from the date of the repeal of such exemption, except as provided in paragraph (2) of subsection (a). Any bank holding company subject to such five-year limitation on the retention of nonbanking assets shall endeavor to divest itself of such shares promptly and such bank holding company shall report its progress in such divestiture to the Board two years after repeal of the exemption applicable to it and annually thereafter."

SEC. 9. Section 6 of the Bank Holding Company Act of 1956 (12 U.S.C. 1845) is hereby repealed.

SEC. 10. The first sentence of section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended by striking out "sixty" and inserting "thirty".

SEC. 11. Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 (note)) is amended by inserting "(a)" after "SEC. 11."; by inserting a comma and "except as specifically provided in this section" before the period at the end thereof; and by adding at the end thereof the following new subsections:

"(b) The Board shall immediately notify the Attorney General of any approval by it pursuant to this Act of a proposed acquisition, merger, or consolidation transaction, and such transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board. Any action brought under the antitrust laws arising out of an acquisition, merger, or consolidation transaction shall be commenced within such thirty-day period. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pur-

89TH CONGRESS
2D SESSION

H. R. 15440

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 1966

Mr. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Fair Packaging and
4 Labeling Act".

5 DECLARATION OF POLICY

6 SEC. 2. Informed consumers are essential to the fair and
7 efficient functioning of a free market economy. Packages
8 and their labels should enable consumers to obtain accurate

1 information as to the quantity of the contents and should
2 facilitate price comparisons. Therefore, it is hereby declared
3 to be the policy of the Congress to assist consumers and
4 manufacturers in reaching these goals in the marketing of
5 consumer goods.

6 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND
7 LABELING

8 SEC. 3. (a) It shall be unlawful for any person engaged
9 in the packaging or labeling of any consumer commodity (as
10 defined in this Act) for distribution in commerce, or for any
11 person (other than a common carrier for hire, a contract
12 carrier for hire, or a freight forwarder for hire) engaged in
13 the distribution in commerce of any packaged or labeled con-
14 sumer commodity, to distribute or to cause to be distributed
15 in commerce any such commodity if such commodity is con-
16 tained in a package, or if there is affixed to that commodity
17 a label, which does not conform to the provisions of this Act
18 and of regulations promulgated under the authority of this
19 Act.

20 (b) The prohibition contained in subsection (a) shall
21 not apply to persons engaged in business as wholesale or re-
22 tail distributors of consumer commodities except to the extent
23 that such persons (1) are engaged in the packaging or label-
24 ing of such commodities, or (2) prescribe or specify by any

1 means the manner in which such commodities are packaged
2 or labeled.

3 REQUIREMENTS AND PROHIBITIONS

4 SEC. 4. (a) No person subject to the prohibition con-
5 tained in section 3 shall distribute or cause to be distributed
6 in commerce any packaged or labeled consumer commodity
7 unless in conformity with regulations established by the
8 promulgating authority pursuant to section 6 of this Act
9 which shall provide that:

10 (1) The commodity shall bear a label specifying the
11 identity of the commodity and the name and place of busi-
12 ness of the manufacturer, packer, or distributor; and

13 (2) The net quantity of contents (in terms of weight,
14 measure, or numerical count) shall be separately and accu-
15 rately stated in a uniform location upon the principal display
16 panel of that label if that consumer commodity is enclosed in
17 a package; and

18 (3) The separate label statement of net quantity of
19 contents appearing upon or affixed to any package—

20 (A) if expressed in terms of weight or fluid volume,
21 on any package of a consumer commodity containing
22 less than four pounds or one gallon, shall be expressed
23 in ounces or in whole units of pounds, pints, or quarts
24 (avoirdupois or liquid, whichever may be appropriate) ;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by topography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in non-deceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, meas-

1 ure, or count that tends to exaggerate the amount of the
2 commodity contained in the package.

3 ADDITIONAL REGULATIONS

4 SEC. 5. (a) The authority to promulgate regulations
5 under this Act is vested in (A) the Secretary of Health,
6 Education, and Welfare (referred to hereinafter as the "Sec-
7 retary") with respect to any consumer commodity which is
8 a food, drug, device, or cosmetic, as each such term is defined
9 by section 201 of the Federal Food, Drug, and Cosmetic Act
10 (21 U.S.C. 321) ; and (B) the Federal Trade Commission
11 (referred to hereinafter as the "Commission") with respect
12 to any other consumer commodity.

13 (b) If the promulgating authority specified in this sec-
14 tion finds that, because of the nature, form, or quantity of a
15 particular consumer commodity, or for other good and suf-
16 ficient reasons, full compliance with all the requirements
17 otherwise applicable under section 4 of this Act is imprac-
18 ticable or is not necessary for the adequate protection of
19 consumers, the Secretary or the Commission (whichever the
20 case may be) shall promulgate regulations exempting such
21 commodity from those requirements to the extent and under
22 such conditions as the promulgating authority determines to
23 be consistent with section 2 of this Act.

24 (c) Whenever the promulgating authority determines

1 that regulations containing prohibitions or requirements other
2 than those prescribed by section 4 are necessary to prevent
3 the deception of consumers or to facilitate price comparisons
4 as to any consumer commodity, such authority shall promul-
5 gate with respect to that commodity regulations effective to—

6 (1) establish and define standards for characteriz-
7 ing the size of a package enclosing any consumer com-
8 modity, which may be used to supplement the label
9 statement of net quantity of contents of packages contain-
10 ing such product, but this paragraph shall not be con-
11 strued as authorizing any limitation on the size, shape,
12 weight, dimensions, or number of packages which may
13 be used to enclose any product or commodity;

14 (2) establish and define the net quantity of any
15 product (in terms of weight, measure, or count) which
16 shall constitute a serving, if that product is distributed
17 to retail purchasers in a package or with a label which
18 bears a representation as to the number of servings pro-
19 vided by the net quantity of contents contained in that
20 package or to which that label is affixed;

21 (3) regulate the placement upon any package con-
22 taining any product, or upon any label affixed to such
23 product, of any printed matter stating or representing
24 by implication that such product is offered for retail sale
25 at a price lower than the ordinary and customary retail

1 sale price or that a retail sale price advantage is ac-
2 corded to purchasers thereof by reason of the size of that
3 package or the quantity of its contents; and

4 (4) require (consistent with requirements imposed
5 by or pursuant to the Federal Food, Drug, and Cosmetic
6 Act, as amended) that information with respect to the
7 ingredients and composition of any consumer commodity
8 (other than information concerning proprietary trade
9 secrets) be placed upon packages containing that com-
10 modity; and

11 (5) prevent the distribution of that commodity for
12 retail sale in packages of sizes, shapes, or dimensional
13 proportions which are likely to deceive retail purchasers
14 in any material respect as to the net quantity of the
15 contents thereof (in terms of weight, measure, or
16 count).

17 (d) Whenever the promulgating authority determines,
18 after a hearing conducted in compliance with section 7 of
19 the Administrative Procedure Act, that the weights or quan-
20 tities in which any consumer commodity is being distributed
21 for retail sale are likely to impair the ability of consumers
22 to make price per unit comparisons such authority shall—

23 (1) publish such determination in the Federal
24 Register; and

25 (2) promulgate, subject to the provisions of sub-

1 sections (e), (f), and (g), regulations effective to
2 establish reasonable weights or quantities, or fractions
3 or multiples thereof, in which any such consumer com-
4 modity shall be distributed for retail sale.

5 (e) At any time within sixty days after the publica-
6 tion of any determination pursuant to subsection (d) (1)
7 as to any consumer commodity, any producer or distributor
8 affected may request the Secretary of Commerce to partici-
9 pate in the development of a voluntary product standard
10 for such commodity under the procedures for the develop-
11 ment of voluntary product standards established by the Sec-
12 retary pursuant to section 2 of the Act of March 3, 1901
13 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such pro-
14 cedures shall provide adequate manufacturer, distributor, and
15 consumer representation. Upon the filing of any such re-
16 quest, the Secretary shall transmit notice thereof to the
17 authority which has caused notice of such determination to
18 be published.

19 (f) No regulation promulgated pursuant to subsection
20 (d) (2) with respect to any consumer commodity may—

21 (1) vary from any voluntary product standard in
22 effect with respect to that consumer commodity which
23 was published—

24 (A) before the publication of any determination

1 with respect to that consumer commodity pursuant to
2 subsection (d) (1) ;

3 (B) within one year after the filing pursuant to
4 this section of a request for the establishment of a volun-
5 tary product standard with respect to that consumer
6 commodity; or

7 (C) within such period of time (not exceeding
8 eighteen months after the filing of such request) as the
9 promulgating authority may deem proper upon a certifi-
10 cation by the Secretary of Commerce that such a volun-
11 tary product standard with respect to that consumer
12 commodity is under active consideration and that there
13 is presently grounds for belief that such a standard for
14 that commodity will be published within a reasonable
15 period of time;

16 (2) establish any weight or measure in any amount
17 less than two ounces;

18 (3) preclude the use of any package of particular
19 dimensions or capacity customarily used for the distribu-
20 tion of related products of varying densities, except to
21 the extent that it is determined that the continued use
22 of such package for such purpose is likely to deceive
23 consumers; or

1 (4) preclude the continued use of particular di-
2 mensions or capacities of returnable or reusable
3 glass containers for beverages in use as of the effective
4 date of the Act.

5 (g) In the promulgation of regulations under subsec-
6 tion (d) (2) of this section, due regard shall be given
7 to the probable effect of such regulations upon—

8 (1) the cost of the packaging of the products
9 affected;

10 (2) the availability of any product in a reasonable
11 range of package sizes to serve consumer convenience;

12 (3) the materials used for the packaging of the
13 affected products;

14 (4) the weights and measures customarily used
15 in the packaging of the affected products; and

16 (5) competition between containers made of dif-
17 ferent types of packaging material.

18 PROCEDURE FOR PROMULGATION OF REGULATIONS

19 SEC. 6. (a) Regulations promulgated by the Secretary
20 under section 4 or section 5 of this Act shall be promulgated,
21 and shall be subject to judicial review, pursuant to the pro-
22 visions of subsections (e), (f), and (g) of section 701 of
23 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371
24 (e), (f), and (g)). Hearings authorized or required for
25 the promulgation of any such regulations by the Secretary

1 shall be conducted by the Secretary or by such officer or em-
2 ployee of the Department of Health, Education, and Welfare
3 as he may designate for that purpose.

4 (b) Regulations promulgated by the Commission under
5 section 4 or section 5 of this Act shall be promulgated, and
6 shall be subject to judicial review, by proceedings taken in
7 conformity with the provisions of subsections (e), (f), and
8 (g) of section 701 of the Federal Food, Drug, and Cosmetic
9 Act (21 U.S.C. 371 (e), (f), and (g)) in the same man-
10 ner, and with the same effect, as if such proceedings were
11 taken by the Secretary pursuant to subsection (a) of this
12 section. Hearings authorized or required for the promulga-
13 tion of any such regulations by the Commission shall be con-
14 ducted by the Commission or by such officer or employee
15 of the Commission as the Commission may designate for that
16 purpose.

17 (c) In carrying into effect the provisions of this Act, the
18 Secretary and the Commission are authorized to cooperate
19 with any department or agency of the United States, with
20 any State, Commonwealth, or possession of the United States,
21 and with any department, agency, or political subdivision of
22 any such State, Commonwealth, or possession.

23 (d) No regulation adopted under this Act shall preclude
24 the continued use of returnable or reusable glass containers

1 for beverages in inventory or with the trade as of the effec-
2 tive date of this Act.

3 ENFORCEMENT

4 SEC. 7. (a) Any consumer commodity which is a food,
5 drug, device, or cosmetic, as each such term is defined by sec-
6 tion 201 of the Federal Food, Drug, and Cosmetic Act (21
7 U.S.C. 321), and which is introduced or delivered for intro-
8 duction into commerce in violation of any of the provisions
9 of this Act, or the regulations issued pursuant to this Act,
10 shall be deemed to be misbranded within the meaning of
11 chapter III of the Federal Food, Drug, and Cosmetic Act,
12 but the provisions of section 303 of that Act (21 U.S.C. 333)
13 shall have no application to any violation of section 3 of
14 this Act.

15 (b) Any violation of any of the provisions of this Act,
16 or the regulations issued pursuant to this Act, with respect
17 to any consumer commodity which is not a food, drug, device,
18 or cosmetic, shall constitute an unfair or deceptive act or
19 practice in commerce in violation of section 5 (a) of the Fed-
20 eral Trade Commission Act and shall be subject to enforce-
21 ment under section 5 (b) of the Federal Trade Commission
22 Act.

23 (c) In the case of any imports into the United States
24 of any consumer commodity covered by this Act, the pro-
25 visions of sections 4 and 5 of this Act shall be enforced by

1 the Secretary of the Treasury pursuant to section 801 (a)
2 and (b) of the Federal Food, Drug, and Cosmetic Act (21
3 U.S.C. 381).

4 REPORTS TO THE CONGRESS

5 SEC. 8. Each officer or agency required or authorized
6 by this Act to promulgate regulations for the packaging or
7 labeling of any consumer commodity, or to participate in the
8 development of voluntary product standards with respect
9 to any consumer commodity under procedures referred to in
10 section 5 (e) of this Act, shall transmit to the Congress in
11 January of each year a report containing a full and complete
12 description of the activities of that officer or agency for the
13 administration and enforcement of this Act during the pre-
14 ceding fiscal year.

15 COOPERATION WITH STATE AUTHORITIES

16 SEC. 9. (a) A copy of each regulation promulgated
17 under this Act shall be transmitted promptly to the Secretary
18 of Commerce, who shall (1) transmit copies thereof to all
19 appropriate State officers and agencies, and (2) furnish to
20 such State officers and agencies information and assistance
21 to promote to the greatest practicable extent uniformity in
22 State and Federal regulation of the labeling of consumer
23 commodities.

24 (b) Nothing contained in this section shall be construed
25 to impair or otherwise interfere with any program carried

1 into effect by the Secretary of Health, Education, and Wel-
2 fare under other provisions of law in cooperation with State
3 governments or agencies, instrumentalities, or political sub-
4 divisions thereof.

5 DEFINITIONS

6 SEC. 10. For the purpose of this Act—

7 (a) The term “consumer commodity”, except as other-
8 wise specifically provided by this subsection, means any food,
9 drug, device, or cosmetic (as those terms are defined by the
10 Federal Food, Drug, and Cosmetic Act), and any other
11 article, product, or commodity of any kind or class which is
12 customarily produced or distributed for sale through retail
13 sales agencies or instrumentalities for consumption by indi-
14 viduals, or use by individuals for purposes of personal care
15 or in the performance of services ordinarily rendered within
16 the household, and which usually is consumed or expended
17 in the course of such consumption or use. Such term does
18 not include—

19 (1) any meat or meat product, poultry or poultry
20 product, or tobacco or tobacco product;

21 (2) any commodity subject to packaging or label-
22 ing requirements imposed by the Secretary of Agri-
23 culture pursuant to the Federal Insecticide, Fungicide,
24 and Rodenticide Act, or the provisions of the eighth
25 paragraph under the heading “Bureau of Animal Indus-

try” of the Act of March 4, 1913 (37 Stat. 832–833;
21 U.S.C. 151–157), commonly known as the Virus-
Serum-Toxin Act;

(3) any drug subject to the provisions of sections
503 (b) (1) or 506 of the Federal Food, Drug, and
Cosmetic Act (21 U.S.C. 353 (b) (1), 355, 356, 357) ;

(4) any beverage subject to or complying with
packaging or labeling requirements imposed under the
Federal Alcohol Administration Act (27 U.S.C. 201
et seq.) ; or

(5) any commodity subject to the provisions of the
Federal Seed Act (7 U.S.C. 1551–1610).

(b) The term “package” means any container or wrap-
ping in which any consumer commodity is enclosed for use
in the delivery or display of that consumer commodity to
retail purchasers, but does not include—

(1) shipping containers or wrappings used solely
for the transportation of any consumer commodity in
bulk or in quantity to manufacturers, packers, or proces-
sors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used
by retailers to ship or deliver any commodity to retail
customers if such containers and wrappings bear no
printed matter pertaining to any particular commodity;
or

1 (3) containers subject to the provisions of the Act
2 of August 3, 1912 (37 Stat. 250, as amended; 15
3 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat.
4 1186, as amended; 15 U.S.C. 234-236), the Act of
5 August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C.
6 251-256), or the Act of May 21, 1928 (45 Stat. 685,
7 as amended; 15 U.S.C. 257-257i) ;

8 (c) The term "label" means any written, printed, or
9 graphic matter affixed to any consumer commodity or affixed
10 to or appearing upon a package containing any consumer
11 commodity ;

12 (d) The term "person" includes any firm, corporation,
13 or association ;

14 (e) The term "commerce" means (1) commerce be-
15 tween any State, the District of Columbia, the Common-
16 wealth of Puerto Rico, or any territory or possession of the
17 United States, or territory and any place outside thereof,
18 and (2) commerce within the District of Columbia or
19 within any territory or possession of the United States not
20 organized with a legislative body, but shall not include ex-
21 ports to foreign countries ; and

22 (f) The term "principal display panel or panels" means
23 that part, or those parts, of a label that is, or are most likely

1 to be, displayed, presented, shown, or examined under normal
2 and customary conditions of display for retail sale.

3 SAVING PROVISION

4 SEC. 11. Nothing contained in this Act shall be con-
5 strued to repeal, invalidate, supersede, or otherwise adversely
6 affect—

7 (a) the Federal Trade Commission Act or any
8 statute defined therein as an antitrust Act;

9 (b) the Federal Food, Drug, and Cosmetic Act; or

10 (c) the Hazardous Substance Labeling Act.

11 EFFECT UPON STATE LAW

12 SEC. 12. It is hereby declared it is the express intent of
13 Congress to supersede any and all laws of the State or politi-
14 cal subdivisions thereof insofar as they may now or hereafter
15 provide for the labeling of the net quantity of contents of the
16 package of any consumer commodity covered by this Act
17 which differ from the requirements of section 4 of this Act
18 or regulations promulgated pursuant thereto.

19 EFFECTIVE DATE

20 SEC. 13. This Act shall take effect on the first day of
21 the sixth month beginning after the date of its enactment:
22 *Provided*, That the Secretary (with respect to any consumer
23 commodity which is a food, drug, device, or cosmetic), and

1 the Commission (with respect to any other consumer com-
2 modity) may by regulation postpone, for an additional
3 twelve-month period, the effective date of this Act with
4 respect to any class or type of consumer commodity on the
5 basis of a finding that such a postponement would be in the
6 public interest.

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

By Mr. STAGGERS

JUNE 2, 1966

Referred to the Committee on Interstate and Foreign
Commerce

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
(NOT TO BE QUOTED OR CITED)

Issued June 8, 1966
For actions of June 7, 1966
89th-2nd; No. 93

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HIGHLIGHTS: House agreed to conference report on bill to permit alternate crops in disaster areas. Senate subcommittee approved school milk, cotton promotion, and parity price-income bills. Senate committee voted to report dog-cat handling bill.

HOUSE

1. DISASTER RELIEF. Agreed to the conference report on H. R. 15151, to permit the planting of alternate crops on acreage which is unplanted because of natural disaster. p. 11878
2. LEGISLATIVE APPROPRIATION BILL. Passed as reported this bill, H. R. 15456, which includes funds for the Government Printing Office and the Library of Congress. pp. 11881-8

3. ELECTRIFICATION. Rep. Hungate spoke in support of the REA program. pp. 11906-8
4. MONOPOLIES. Rep. Patman commended the Supreme Court's decision in the Von's Grocery Case and asked strong enforcement of the anti-trust laws. pp. 11909-17
5. PRICES. Rep. Curtis said all prices are not up and that there are improved quality, wider distribution, increased wages, etc. pp. 11920-3
6. SOIL CONSERVATION. Rep. Quie commended the work of the soil conservation districts. p. 11923
7. FARM PROGRAM. Rep. Poage and others debated the farm program. pp. 11923-30
8. PORK PURCHASES. Rep. Quie questioned the accuracy of the Secretary's statement on pork purchases by the Defense Department and inserted an article on this subject. pp. 11932-3
9. PUBLIC DEBT. The Rules Committee reported a resolution for consideration of H. R. 15202, to provide for an increase in the public debt (p. 11945). This bill is to be debated today (p. D497).
10. POVERTY. H. R. 15111, the "Economic Opportunity Amendments of 1966," as reported June 1, includes provisions for enrollment of more women in the Job Corps and to raise the limit on loans to low-income rural families from \$2,500 to \$3,000.

SENATE

11. SCHOOL MILK. Sen. Proxmire inserted a statement by Sen. Inouye commending S. 2921, the Proxmire school milk bill. pp. 11847-8
12. FISHERY RESOURCES. Passed as reported S. J. Res. 29, to direct the Interior Department to survey the coastal and fresh-water commercial fishery resources. pp. 11850-1
13. WATER RESEARCH. Sen. Monroney inserted James M. Quigley's statement at the dedication ceremonies for the Kerr Water Research Center in Okla. pp. 11854-6
14. PACKAGING; LABELING. Continued debate on S. 985, the fair packaging and labeling bill. p. 11869
15. RESEARCH ANIMALS. The Commerce Committee voted to report (but did not actually report) H. R. 13881, to regulate the transportation, sale, and handling of dogs and cats intended to be used for experimental purposes. p. D496
16. MILK; COTTON; PARITY. A subcommittee of the Agriculture and Forestry Committee approved for full committee action S. 2921, the Proxmire school milk bill; H. R. 12322, the cotton promotion bill; and S. Con. Res. 88, to make it explicit that the parity price and income goal for agriculture shall be binding on all Government agencies. p. D495

activity in the United States except as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to the international or foreign business of such foreign bank; and, notwithstanding the provisions of section 23A of this Act, to make loans or extensions of credit to or for the account of such bank in the manner and within the limits prescribed by the Board by general or specific regulation or ruling.

"(c) Section 18 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828), is further amended by adding at the end thereof the following new subsection:

"(j) The provisions of section 23A of the Federal Reserve Act, as amended, relating to loans and other dealings between member banks and their affiliates, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a member bank; and for this purpose any company which would be an affiliate of a nonmember insured bank, within the meaning of section 2 of the Banking Act of 1933, as amended, and for the purposes of section 23A of the Federal Reserve Act, if such bank were a member bank shall be deemed to be an affiliate of such nonmember insured bank.

"SEC. 13. (a) Subsection (b) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a), is further amended by inserting before the period at the end thereof the following: 'or

"(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of a member bank at the preceding election, or controls in any manner the election of a majority of the directors of a member bank, or for the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees'.

"(b) Subsection (c) of section 2 of the Banking Act of 1933, as amended (12 U.S.C. 221a), is repealed.

"(c) Section 5144 of the Revised Statutes, as amended (12 U.S.C. 61), is amended to read as follows:

"SEC. 5144. In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 302(a) of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act

as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

"(d) Paragraph (c) of section 5211 of the Revised Statutes (12 U.S.C. 161) is amended by striking out the second sentence thereof.

"(e) The last sentence of the sixteenth paragraph of section 4 of the Federal Reserve Act, as amended (12 U.S.C. 304), is amended by striking out all of the language therein which follows the colon and by inserting in lieu thereof the following: 'Provided, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956, participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.'

"(f) The nineteenth paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 334) is amended by striking out the last sentence of such paragraph.

"(g) The twenty-second paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 337) is repealed.

"(h) The third paragraph of section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended by striking out that part of the first sentence that reads 'For the purpose of this section, the term "affiliate" shall include holding company affiliates as well as other affiliates, and'; and by changing the word 'the' following such language to read 'The'.

"(i) Paragraph (4) of section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3) is repealed.

"(j) Paragraph (11) of section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2) is amended by striking out the words 'or any holding company affiliate, as defined in the Banking Act of 1933' and substituting therefor the words 'or any bank holding company as defined in the Bank Holding Company Act of 1956'.

Mr. MANSFIELD. Mr. President, the senior Senator from Virginia [Mr. ROBERTSON] once again has served this body with the unparalleled distinction and wisdom which has characterized his many years of public service.

Passage of the Bank Holding Act amendments today only confirms the fact long ago established, that WILLIS ROBERTSON is one of the most dedicated and articulate individuals who ever entered this body. The people of the great Commonwealth of Virginia may justly be proud of their senior Senator for another achievement obtained with the highest skill and ability.

Equally strong and articulate in his support of this measure was the senior Senator from Illinois [Mr. DOUGLAS]. So characteristic were his clear and convincing views on banking and currency matters. So typical was his highly able advocacy. As always, the Senate is grateful for a success distinguished by the learned support of the great Illinois Senator.

The ranking minority member of the Committee on Banking and Currency [Mr. BENNETT] likewise is to be commended today for his gracious cooperation. We are forever indebted to him

for his great efforts on behalf of orderly and efficient action.

To other Senators whose skillful advocacy and generous cooperation largely assisted this success we are similarly grateful. The Senators from Wisconsin [Mr. PROXMIRE], Florida [Mr. HOLLAND], Ohio [Mr. LAUSCHE], Michigan [Mr. HART], Louisiana [Mr. LONG], and others are thus to be commended both for splendid cooperation and for generous support.

FAIR PACKAGING AND LABELING ACT

Mr. LONG of Louisiana. Mr. President, I move that the Senate proceed to consider Calendar No. 1151, S. 985.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to; and the Senate proceeded to consider the bill.

Mr. MAGNUSON. Mr. President, I understand there is a unanimous-consent agreement to vote on the Cotton amendment to the Fair Packaging and Labeling Act on tomorrow. The agreement was obtained while I was at home, and I do not know the exact time of the vote. May I inquire of the desk?

The PRESIDING OFFICER. The vote will be at 4 o'clock on tomorrow.

Mr. MAGNUSON. Mr. President, I do not know of any member of the Commerce Committee or of any other Senator who wants to speak today on the bill. The measure was discussed pro and con on many occasions.

Several Senators might want to place some of their thoughts in the RECORD. The time will be divided tomorrow, and after the Cotton amendment is disposed of, there may be some further debate on the bill.

The Cotton amendment is the major amendment, and I think that the vote on that amendment will clarify the question of whether we might be able to finish the bill on tomorrow.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG of Missouri. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIG BROTHERISM AT ITS WORST

Mr. LONG of Missouri. Mr. President, the investigation of the Senate Administrative Practice and Procedure Subcommittee into Government practices that abuse the rights of our citizens

has uncovered a number of tactics and official attitudes that are most disquieting.

An Internal Revenue agent told the subcommittee that he violated State laws all the time. He said it was a part of his duties. A Food and Drug Administration official told the subcommittee that they had not received one complaint that detail men for major drug manufacturers exaggerated or misrepresented an employer's product. Yet, shortly thereafter, the Food and Drug Commissioner severely criticized major drug manufacturers for exactly such conduct. The list of examples where Federal agents have completely disregarded the people and the Congress in their zeal to advance their own cause goes on and on.

Recently there came to my attention an internal memorandum of the Internal Revenue Service that indicated just how far afield a Federal agency can get. Intellectuals have often been charged with living in ivory towers, but a reading of this memorandum shows clearly that its author is out of touch with reality. And beyond this, it shows clearly "Big Brotherism" at its worst.

The memorandum outlines a public information program for the Alcohol and Tobacco Tax Division and demonstrates an almost total contempt for the American press and the American people. It is the goal of the program to "brainwash" the people and change the "public's warped view" of the Alcohol and Tobacco Tax special investigator.

The memorandum speaks for itself more clearly than I can describe it so I would like to read a paragraph which describes a radio series based on Alcohol and Tobacco Tax closed case histories:

A dramatic radio program based on A. and T.T. closed case histories will be made available after "Operation Dry-Up" is in progress in your state. At the present time, we have 30 weeks programming available. The programs are 30 minutes in length, and are not only entertaining, but are used to brainwash the citizenry and to escalate the image of the A. and T.T. special investigator. Your first impression of the program will be that it is corny and over-dramatic. Experts have evaluated the program, and they tell us that it is of excellent quality, and does the job it was originated to do. We stand second only to "Batman."

The memorandum also gives advice on the news media, and I would like to read from this section:

A great number of people engaged in the profession of news writing are of odd make-up. The majority are individualists with egos that need to be pumped up each time they do a job for an organization. The media personnel are usually "hams" and delight in making a public appearance, receiving applause, and recognition.

Before proceeding, I want to make it clear that I am not opposed to public information or public education efforts on the part of Government agencies. It is essential that the people know what their Government is doing. In fact, I have worked to enact legislation to increase the flow of information to the public. But there is a sharp line between legitimate public information and self-aggrandizement. It seems clear from this memorandum that the purpose of the program outlined is to serve the selfish

purposes of the Alcohol and Tobacco Tax Division and not serve the public.

The following lengthy list of material available to bolster the public image of Alcohol and Tobacco Tax and its agents is set out in the memo.

First. A document entitled "What You Should Know About Alcohol and Tobacco Tax."

Second. Reference material to be used as a guide in presenting radio, television and civic group programs.

Third. A film entitled "Still in Business."

Fourth. Forty-three personality tapes for radio presentation.

Fifth. Five television filmstrips.

Sixth. Eighteen different prepared radio scripts.

Seventh. Thirty half-hour radio programs.

Over and above this prepared material the memo does not want to miss a bet so it provides advice on press releases. This portion of the memo shows how far they are willing to go to obtain self-serving publicity.

The preparation of a news release is a simple task when you use who, what, when, where, and why as a guideline for news release content. The release should be brief, factual, and include interesting items that surrounded the seizure and/or arrests that make this story different from others.

This is a clear example of promoting "trial by press" a concept that is becoming all too prevalent among Government agencies.

The memorandum rates the Alcohol and Tobacco Tax case histories radio dramatic series second only to "Batman." Strangely enough, as one reads the memo, he feels he is reading from the script of the make-believe television world of "Batman." Unfortunately, this is not the case. The Alcohol and Tobacco Tax Division is real, this memorandum is real, and the public information program spelled out in it is real. The memorandum came to me from a friend in Mississippi who was supposed to participate in the program and its authenticity has been verified by the IRS Chief of Public Information.

Justice Louis Brandeis warned us in 1928 that the greatest dangers to liberty lurk in insidious encroachment of men of zeal; well-meaning but without understanding. The truth of this warning is borne out by the memorandum.

The Internal Revenue Service has refused to provide the subcommittee with the name and title of the memo's author. As a result, the subcommittee has invited Mr. Joseph Rosapepe, IRS Chief of Public Information, to testify before it on June 8 relative to the memo.

So that other Members of the Senate will have an opportunity to read the entire text of the memorandum and reach their own judgment, I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

PUBLIC INFORMATION PROGRAM IN NON "OPERATION DRY-UP" STATES

I. OBJECTIVES OF THE PROGRAM

The objective of the public information program in A&TT in non "Operation Dry-Up"

states is to acquaint the mass media with the enforcement . . . of Alcohol and Tobacco Tax. You must lay a solid . . . public information program in preparation for . . . "Operation Dry-Up" to your state. This is accomplished by visiting radio stations, television stations and newspaper offices. You must acquaint yourself with the procedures followed by the different news media. Try to get on a first name basis with the man that writes the story, takes the pictures, or covers stories written about A&TT enforcement activities. This is perhaps one of the most important steps of the overall program prior to the coming of "Operation Dry-Up". Gain the trust of the top management of the various news media. Let them know who we are, what the objectives are, and how we intend to accomplish them.

It will be the job of every special investigator to actively participate in the public information program. Public information, or education, whichever you prefer, is a 24-hour day job. Those of you in a supervisory position will have to carefully guide the trainee-investigator, and insure this active interest and participation in the program.

II. THE PUBLIC INFORMATION PROGRAM MATERIAL NOW AVAILABLE, AND THE MATERIAL TO BE MADE AVAILABLE AT THE COMMENCEMENT OF "OPERATION DRY-UP"

At the present time, a pamphlet is available describing the mission of A&TT. The document is entitled, "What You Should Know About Alcohol and Tobacco Tax." The document is expensive to reproduce, and should not be used to hand out at fairs, but should be made available to persons who have a specific interest in A&TT, such as representatives of the mass media. Reference material is available to be used as a guide in presenting radio, television, and civic group programs. The materials are to be used only as a guideline. You must adjust your speeches to fit the group of people you are speaking to. Keep in mind what you say represents A&TT.

You should start driving home the message: "Lead salts poisoning blinds, paralyzes and kills the moonshine drinker," in preparation for an all-out campaign. The regional laboratory is at your disposal for securing information as to lead salts content of samples taken from seized nontaxpaid liquor in your specific state, or post of duty, area.

The film, "Still in Business" is available, and is excellent to use before civic groups and to be shown on television stations. Thought should be given by investigative personnel in composing new spot announcements for radio and television.

The preparation of a news release is a simple task when you use who, what, when, where, and why as a guideline for news release content. The release should be brief, factual, and include interesting items that surrounded the seizure and/or arrests that make this story different from others.

When "Operation Dry-Up" moves to your state, 43 personality tapes will be made available for distribution to all radio stations at a rate of approximately one per month. The tapes were made by such personalities as Edward G. Robinson, Robert Stack, Andy Griffith, Louis Armstrong, etc. The spots announce to the public that the celebrity joins with A&TT in its enforcement program; informs the public that racketeers have taken over the moonshine industry; that lead salts is found in 90% of the moonshine made and sold in the South, and that lead salts can blind, paralyze and kill.

Twenty second television filmstrips will be made available during "Operation Dry-Up". There are five different ones. They show the filthy conditions under which moonshine is made, and warn of the health hazards that confront the consumer of moonshine. Also, 18 different prepared radio scripts, 30 seconds to one minute in

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For actions of June 8, 1966
89th-2nd; No. 94

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Food.....4,16,17,21	Personnel.....27	Water resources.....3
Great Society.....23	Prices.....8,21,24	Wheat certificates.....9

HIGHLIGHTS: Senate debated bill to authorize alternate crops for disaster areas.
Senate debated fair packaging-labeling bill. Senate committee reported bill for
water-resources survey.

SENATE

1. DISASTER RELIEF. Began debate on the conference report on H. R. 15151, to permit the planting of alternate crops on acreage which is unplanted because of natural disaster. pp. 12086-93, 12094-100
2. PACKAGING; LABELING. Continued debate on S. 985, the fair packaging and labeling bill. pp. 12022-31, 12061-80, 12093-4, 12100

3. WATER RESOURCES. The Interior and Insular Affairs Committee reported with amendments S. 3107, to provide for a comprehensive review of national water resources problems and programs (S. Rept. 1212). p. 12018
4. FOOD SHORTAGE. Sen. Mondale expressed concern about the world food shortage and submitted an amendment which he intends to propose to S. 2859, the foreign aid bill, to provide for assistance in food-production development in foreign countries. pp. 12019-22
5. RESEARCH ANIMALS. Sen. Mondale commended various interests in Minn. for getting together on a recommendation for legislation relating to handling and care of research animals and inserted articles on this matter. pp. 12047-8
6. SCHOOL MILK. Sen. Proxmire spoke in favor of his school milk bill, S. 2921, and inserted favorable testimony of Rep. Culver. p. 12042
7. HAWAII LOANS. The Agriculture and Forestry Committee voted to report (but did not actually report) with amendment S. 112, authorizing this Department to make real estate mortgage loans on leased lands in Hawaii. p. D503
8. PARITY. The Agriculture and Forestry Committee voted to report (but did not actually report) with amendments S. Con. Res. 88, to make it explicit that the parity price and income goal for agriculture shall be binding on all Government agencies. p. D503
9. WHEAT CERTIFICATES. The Agriculture and Forestry Committee indefinitely postponed H. R. 15089, to permit the Secretary of Agriculture to estimate the July 1966 parity price for wheat in order to expedite issuance of wheat marketing certificates to complying farmers. p. D503
10. SCHOOL MILK; CHILD NUTRITION. The Agriculture and Forestry Committee considered S. 2921, the Proxmire school milk bill, and S. 3467, the child nutrition bill, and announced that hearings will be held on the child nutrition bill. p. D503
11. COTTON. The Agriculture and Forestry Committee announced that it will consider H. R. 12322, the cotton promotion bill, today. p. D503
12. BANKING. The Banking and Currency Committee reported without amendment S. 3368, to extend for 2 years the authority of Federal Reserve banks to purchase U. S. obligations directly from the Treasury (S. Rept. 1215). p. 12018
13. TARIFF. The Finance Committee reported without amendment H. R. 12676, to provide that certain forms of copper be admitted free of duty (S. Rept. 1220). p. 12018
14. INFORMATION. Sen. Miller was added as a cosponsor of S. Res. 270, authorizing an investigation of premature disclosure of information relating to increased production of soybeans and other agricultural commodities. p. 12031
15. PUBLIC LANDS. Sen. Mundt inserted a speech by Milton A. Pearl, Director of the Public Land Law Review Commission, on the history of public lands and plans for the Commission. pp. 12048-9

Rockefeller Foundation, has made possible a 3.3-percent annual increase in wheat yields over the past 25 years, as large as any in the world.

Yet in our foreign assistance programs in general, we have not given anywhere near the emphasis on agricultural research overseas which is needed.

Mr. President, for the past several years AID has been spending \$1 to \$1½ million contracting for university assistance in the field of agriculture in Pakistan. This is only a fraction of 1 percent of the total economic assistance furnished Pakistan during this time. Of this university assistance, probably not more than 5 to 10 percent has gone to expanding adaptive research directed to increasing the acre-yields of the major food crops.

By far the most of the university assistance is for institution building and the improvement of the sciences and educational programs relating to agriculture. This assistance has been valuable and has strengthened the institutions' ability to carry on significant research and educational activities. It should be continued at least for a few more years. Yet, in view of the country's serious food shortages, too few resources are being devoted to adaptive research designed to increase the yield of Pakistan's major food crops.

In India, where food shortages are so severe at the present time, in the 10 years ending in 1963, AID financed university assistance programs averaging a little over \$1 million a year. Since that time the university assistance program carried on by seven U.S. universities contracting with AID has averaged over \$2 million a year. Approximately an equal value of rupees earned by sales of food under Public Law 480 have been utilized each year to strengthen Indian universities and research institutions.

This is excellent, but it is again only a fraction of 1 percent of the total economic assistance given India in recent years. And, I am told that virtually none of these university assistance activities have been devoted directly to expanding adaptive research programs to increase acre yields of India's major food crops.

Only now are we making a serious effort to help India expand her food production research activities. I commend AID for this much-needed shift in program emphasis. But, India is a tremendous country with more than 20 times as many farmers as the United States and great variations in her agricultural regions, and I believe an even higher proportion of our economic assistance to India should be in the form of expanding adaptive food production research programs.

It is disturbing that Chancellor John T. Caldwell, chairman of the International Foods Committee of the National Association of State Universities and Land-Grant Colleges, testified before the Senate Foreign Relations Committee last month that:

We have long sought to include a research component in university foreign assistance contracts, with only limited success.

There are important signs that we are beginning to give more adequate recognition to this need. In a recent speech to the National Academy of Sciences, David Bell, Administrator of the Agency for International Development, said that he feels that the need to build a strong base for applied research and continuing technical progress in the agricultural field is the most important long-range problem faced by developing countries in their efforts to expand food production. It is a problem, he added, which "we do not think we are handling satisfactorily at the present time," although he cited impressive evidence of increased concern over this problem in our aid programs.

But despite the real progress that has been made in recognizing the importance of research overseas, we have not made, to my knowledge, a hard commitment to the kind of comprehensive, thoroughgoing approach in this area that is vital to success in the war against world hunger. My amendment is designed to express the will of Congress that such a program be carried out.

My amendment would call upon our universities—particularly our land-grant colleges—to play a major role in improving agriculture overseas, as they have done so well here.

Already our universities have played major parts in our AID program, in a wide variety of areas, including agriculture. But they need assistance to strengthen their capacity to develop the resources—particularly capable professional personnel—needed to carry out technical agricultural research assistance programs with maximum effectiveness. They have been hampered by the tendency of the AID agency to follow the restrictive contract approach in funding university foreign assistance activities, rather than providing grants which could allow greater flexibility. They have been limited by short-term financial commitments imposed by our annual foreign aid authorizations, making it difficult for universities to plan operations in particular countries on a long-term basis and therefore secure top-quality staffs.

To overcome these shortcomings, Senator McGovern introduced last year an excellent bill, S. 1212, aimed at applying our experience in agricultural development through our universities here at home to the problems overseas.

The President proposed this year the International Education Act, to strengthen the competence of universities in international affairs in general. The administration also included a provision in S. 2859 to allow technical cooperation and development grants to be made available to research and educational institutions in the United States to strengthen their capacity to carry on foreign assistance programs in cooperation with AID.

This authority, if granted by the Congress and forcefully implemented by the executive branch, would make possible the type of program that Senator McGovern has been advocating. But it makes no specific provision for expand-

ing agricultural research in the countries being helped. My proposal would remedy this omission.

Here at home, I have joined with many of my colleagues in fighting against the Budget Bureau's proposal to reduce funds for agricultural research. I recognize the need for continuing this program at its full strength, for it has been the foundation of our agricultural progress in the past, and must continue to be so in the future.

But I have been disturbed to learn that the number of American agricultural specialist working overseas is only about 1 percent of the number we have at home. And only a small percentage of those overseas, perhaps 10 percent, are engaged in research activities.

My proposal would provide a means for substantially increasing the number of seasoned, experienced American agricultural specialists working in agricultural research overseas, and help to train specialists in foreign countries as well, by indicating the will of Congress that such research be substantially expanded.

It is my hope, Mr. President, that this session of the Congress, through its amendments to the foreign aid bill and passage of a strong Food for Freedom Act, can provide the foundation for a massive American effort to help poor countries solve their most fundamental development problem—that of improving food output. In such an effort, it is my hope that our Department of Agriculture and our Agency for International Development will call upon our land-grant universities; our farmers, researchers, and extension workers; and our major farm organizations and cooperatives to make major contributions to this vital phase of the war on hunger. Such an effort, I am convinced, would go a long way toward building a world, so easy to talk about, yet so hard to achieve, where no man need go to bed hungry.

Mr. President, I ask unanimous consent that an editorial from the Des Moines Register of April 21, 1961, entitled "Improving Our Foreign Aid," be printed at this point in the Record.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred; and, without objection, the article and editorial will be printed in the Record. The amendment (No. 587) was referred to the Committee on Foreign Relations.

The article and editorial presented by Mr. MONDALE are as follows:

[From the Washington Post, May 7, 1966]

FOR INDIAN HUNGER A SEED OF HOPE

(By Godfrey Hodgson)

BANDRI, DECCAN.—India has about five years to solve her long-term food problem, said Indira Gandhi, announcing her decision to go to the State of Orissa as a sequel to allegations that starving people there are selling children. According to the planners and the experts in Delhi, that means that the production of food grains, which was under 75 million tons last year—admittedly a year of monsoon failure—has got to be bumped up to 125 million tons by 1971.

In Delhi, that sounds almost hopelessly optimistic. Here, in a remote and hungry corner of the South Indian back of beyond, there is a glimmer of rational hope.

The village of Bandri is in the stony Deccan highlands. It is a scruffy place, even by the standards of a parched and backward region. The 2600 villagers must live off what they can grow on 2000 acres; and of that, only 200 acres are irrigated land. This is a brilliant green against the dun landscape; tiny splashes of green round each of the 17 wells, and two bigger patches below the village's two tanks. The tank nearest the village irrigates 23 tiny plots. Each of them either belongs to the cultivator or is rented by him from a village shopkeeper or money-lender.

The plots average one acre and they give a clue to how India's 500 million can be fed. For this year, for the first time, they have been sown with new hybrid seed, fertilized properly, and protected with insecticides. Next month, when the crop is harvested, each acre will yield anything from 15 to 20 quintals of grain, where before it has yielded two or three quintals.

The government is pinning its hopes of solving the long-term food deficit on these new hybrid strains of seed, which can take heavy doses of fertilizer. The plan is to sow 32 million acres with them by 1971. There are new strains of wheat from Mexico which yield two to three tons to the acre, against 700-1000 pounds with traditional seed, and new strains of rice from Formosa, whose yields are as good.

But what has happened here has little to do with anything that has happened in Delhi. It has everything to do with the common sense and initiative of one young man in his 30s. His name is M. Y. Ghorpade, and until 1947 his father was the reigning Maharajah of the tiny State of Sandur in these hills. Ghorpade read economics at Cambridge with Professor Guillebaud and he represents Bandri and several dozen other villages in the Mysore state legislature.

Last year he decided to experiment by planting a few acres of his own—he is not a big landowner—with a new hybrid strain of *jawar*, the sorghum which is the staple grain in this part of India. To the villagers who came and stared at his crop growing, the result was almost miraculous. The new seed yielded 26 quintals to the acre, exactly 10 times the yield of traditional strains.

Ghorpade saw that there would be little difficulty in persuading his neighbors to use the new seed, but he insisted that they must follow his instructions to the letter—to sow when told, to put down fertilizer and to spray.

The *jawar* was planted in February and the experiment had its share of troubles, but now the farmers beam with pleasure as they look at the *jawar* standing thick and tall, with heavy ears of seed.

The villagers can afford to pay. On a one-acre holding last year, a man might raise three quintals and sell it for 50 rupees a quintal. This year, because of the shortage, *jawar* is fetching 80 rupees; and Mr. Somappa, for example, who has the acre nearest to the village and wears a green bath towel as a turban, is going to get at least 20 quintals to the acre. That is an economic revolution.

Next year, the villagers mean to plant all their irrigated land with hybrids, probably rice. The village council is discussing it eagerly. After that, if Ghorpade can work out insurance cover against monsoon failure, they talk of borrowing enough to plant hybrids on the whole 2000 acres, rain-fed as well as irrigated land. Once they do that, Bandri will move out of the bullock-cart economy.

But the effect of what has happened in Bandri is not only economic. "This has completely changed the economy of this village," Ghorpade told me. "This used to be the most hopeless, useless, quarrelsome village in the *taluk* (county)."

The villagers grinned sheepishly; in South India quite a few villagers speak English. "Look at them now. Now they have hope."

[From the Des Moines Register, Apr. 21, 1966]

IMPROVING OUR FOREIGN AID

The United States is in the throes of revising its foreign aid program. After several years of almost automatic renewal of the same kind of program, in roughly the same amount, Congress is taking a hard look. So is the Administration. President Johnson proposed substantial changes this year.

When the Marshall Plan for recovery of Europe ended in 1953-54, U.S. economic aid dropped sharply—from around \$3.5 billion to \$1.5 billion per year. In 1958-59 the rate of spending was stepped up to about \$2 billion a year, where it has held since. Instead of priming the pump of industrialized areas devastated by war, the U.S. turned to long-range development of the revolutionary, unstable countries of Asia, Africa and South America.

The results have been uneven—and downright disappointing in some areas. Consequently, both Administration and Congress have been searching for more effective ways and means. For some time now, the Administration has been trying to funnel aid to countries which prove they can make better use of it—and to slow it down or withdraw it from places where ineffective or uncooperative governments misuse the grants and loans. Also, the program has been making more loans and giving fewer grants.

J. WILLIAM FULLBRIGHT (Dem., Ark.), chairman of the Senate Foreign Relations Committee, feels that unilateral aid ties the U.S. into dangerous political situations such as the war in Vietnam. He advocates switching aid toward the United Nations and other multi-nation organizations.

This has been advocated by many experts in development—not only on the ground. FULLBRIGHT argues but also on the ground that recipient countries prefer the international mechanisms. No country likes to feel it is a ward of the rich and mighty United States. The World Bank and its subsidiary institutions often have been more effective in accomplishing development goals than the U.S. acting alone.

Another much-debated issue concerns the uncertainty of annual extensions of foreign aid. The Administration has proposed a five-year commitment. Actually, Congress has come through each year with a continuation of the program, without a sudden cutoff. But planners in both the U.S. Administration and other countries have been unable to make positive development plans for several years ahead—as they could in the highly successful four-year Marshall Plan.

Perhaps more important than any of these proposed changes is the Administration proposal for greater emphasis on agricultural development. Experience and new knowledge have shown that progress has lagged where agriculture has been neglected. Countries eager to jump into the Twentieth Century of industrialization have unwisely concentrated on factories, dams, buildings and other glossy projects, while failing to improve production of food.

In recent years U.S. economic assistance funds for agriculture and agribusiness development have amounted to about 15 per cent of the total programmed by the Agency for International Development. In the new proposal, funds for agribusiness are about one-half larger than in 1965-66. This will still be only 18 per cent of the total.

This is a step but not far enough.

The Administration and Congress should greatly increase the emphasis on agricultural development. This will require that embassy and foreign and mission staffs be "beefed up" with more able and well trained men in food and agriculture.

In recent years food shipped in the Food for Peace program has been four to five times the value of the technical and economic assistance in agricultural develop-

ment. This is out of proportion. Free food may cause some governments to neglect their own agricultural development. However, food aid often can be effectively used to further development. It will take more capable staffs in handling the food aid and in administering farm development projects to accomplish this.

The resources of the United States Department of Agriculture and of the Land Grant agricultural colleges still are not being mobilized sufficiently for the job that must be done. One of the greatest needs is for adaptive research, in cooperation with local governments, to develop crop varieties and improve livestock.

Research teams from the U.S. should be given the assignment of developing varieties and production practices which will raise yields by 50 percent or more. This can be done, and we have waited too long to make a major effort in farm research adapted to local conditions.

Congress this year ought to chart a new course in foreign aid, with these improvements:

1. Long-range commitments and long-range planning.
2. Greater effort to work through international organizations.
3. Greater emphasis on helping those who help themselves.
4. Primary attention to agriculture and related business development.
5. Recruiting the American agricultural scientists and technicians necessary for this program.

AMENDMENT OF NATIONAL HOUSING ACT—AMENDMENTS

AMENDMENT NO. 588

Mr. DOUGLAS submitted amendments (No. 588) intended to be proposed by him, to the bill (S. 3215) to amend the National Housing Act to provide mortgage insurance, and authorize direct loans by the Housing and Home Finance Administrator, to help finance the cost of constructing and equipping facilities for the group practice of medicine or dentistry, which was referred to the Committee on Banking and Currency, and ordered to be printed.

FAIR PACKAGING AND LABELING ACT—AMENDMENT

AMENDMENT NO. 589

Mr. COTTON submitted an amendment, intended to be proposed by him, to the bill (S. 985), to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 590

Mr. DIRKSEN. Mr. President, section 4(a)(2) of S. 985, the so-called truth-in-packaging bill, is presented to this body as a new step in regulating the packaging practices of our country's manufacturers of consumer commodities. This section purports to set a new standard for the listing of contents on packages offered for sale. It proposes that the appropriate Government agency or department shall issue regulations which will require that—

The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uni-

form location upon the principal display panel of that label.

Section 403 of the Food, Drug, and Cosmetic Act presently provides:

A food shall be deemed to be misbranded—

(c) if in package form unless it bears a label containing . . . (2) an accurate statement of the quantity of the contents in terms of weight measure, or numerical form . . .

(f) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Pursuant to this same law the Secretary of Health, Education, and Welfare has promulgated specific regulations which the proponents of S. 985 tell is a necessary part of this pending bill. Section 1.8 of the FDC regulations, part I, reads as follows:

(e)(1) The statement of the quantity of the contents shall reveal the quantity of food in the package, exclusive of wrappers and other material packed with such food.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity.

(f)(1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and, except in case of frozen food which is so consumer, shall express the volume at 68° Fahrenheit (20° centigrade). A statement of dry measure shall be in terms of the United States standard barrel and its subdivisions of third, half, and three-quarters barrel. However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subparagraph (1) of this paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of food in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the foods as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of food. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h)(1) If the quantity of food in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this section, and which is applicable to such food under the provisions of paragraph (e)(2) of the section, the

statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one quart of food shall be "1 quart", and not "2 pints" or "32 fluid ounces"), unless the statement is made in accordance with the provisions of subparagraph (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for example, 1¾ quarts may be expressed as "1 quart 1½ pints" or "1 quart 1 pint 8 fluid ounces"; 1¼ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for examples, instead of "1 quart 16 fluid ounces" the statement shall be "1½ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be "1½ pounds" or "1 pound 8 ounces").

(2) In the case of a food with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(1) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

I have read that very lengthy portion of the regulations to impress upon this body the extent of the coverage of existing law and the existing regulations. If that were not enough section 1.9 of the same regulations deals with the prominence of the words or statements required or permitted to be printed on the label. This very detailed regulation lays out some demanding requirements:

Section 1.9: Food; labeling; prominence of required statements. (a) A word, statement, or other information required by or under authority of the act to appear on the label may lack that prominence and conspicuousness required by section 403(f) of the act by reason (among other reasons) of:

(1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) The failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of

label space for any word, statement, design, or device which is not required by or under authority of the act to appear on the label;

(5) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information, or to any design or device; or

(6) Smallness of style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

I have read these quite lengthy regulations lest any of us in this body have not become familiar with them during the past 5 years during which time, the so-called truth-in-packaging legislation has been before us.

Some critics of the existing laws have pointed to the fact that presently there is no requirement that the statement of contents must be on the front panel of the package. Well this question does raise some difficulties. We received testimony to the effect that reasonable people may disagree as to which side is the front or side or back of a given package. Since this question does give so many people trouble let me say this. I intend to introduce a measure at some time in the future which would amend section 403 (e)(2) so that it would require that the statement of quantity be displayed upon the front, main, or principal panel of the package and in a type size not less than a given point type.

It would appear that if we have a special problem which we can isolate, let us deal with that problem directly. Wise and helpful legislation should be aimed directly at the problem areas. Charge the pellmell into the area of Federal regulation over consumer commodity marketing is neither wise nor constructive. Real and tangible aid to the consumer, in terms of lower prices should be the objective, not just an all-fronts skirmish conducted under the mislabeled banner of "consumer interests."

I offer the amendment which I sent to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 591

Mr. DIRKSEN. Mr. President, I am offering an amendment which would strike out all of section 4(a)(3) including subsections (A), (B), (C), and (D). This is a mandatory section which would direct the appropriate department head or agency head to issue regulations which would provide the following:

REQUIREMENTS AND PROHIBITIONS

SEC. 4(a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act and which shall provide that:

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) if expressed in terms of weight or fluid volume, on any package of a consumer commodity containing less than four pounds or one gallon, shall be expressed in ounces or in whole units of pounds, pints, or quarts

(avoid rupois or liquid, whichever may be appropriate);

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

To the extent that this provision parallels existing law it is redundant and therefore unnecessary. To the extent that it goes beyond existing law it is potentially dangerous. Section 403(f) of the Food, Drug, and Cosmetic Act presently providing:

A food shall be deemed misbranded if in any word, statement, or other information required * * * this Act to appear on the label * * * is not prominently placed thereon with such conspicuousness * * * and in such form as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Section 1.9(c) of the Food and Drug Administration regulations under the Food, Drug, and Cosmetic Drug Act states:

Information required by * * * the Act to appear on the label may lack that prominence and conspicuousness required by section 403(f) of the Act by reason * * * of smallness or size or type in which such * * * information appears. * * *

Yet another law, section 5(a)(1) of the Federal Trade Commission Act provides:

Unfair methods of competition in commerce, and unfair and deceptive acts in commerce, are hereby declared unlawful.

As one witness before the Senate Commerce Committee pointed out:

If the lack of prominence of the net quantity statement resulted in an unfair or misleading deceptive act, this provision of the Federal Trade Commission Act could be utilized in prohibiting such act.

Certainly the proponents of this bill, S. 985, cannot deny that to a great extent the present law already covers most of the area which S. 985 is advertised as reaching. The real danger then lies in those areas where S. 985 goes beyond existing law. Advocates of this bill assert that their intent is only to reach the small segment of industry which utilize deceptive practices. But this particular section of S. 985 opens a brandnew area for Federal administrators to exercise what may be devastating control over large areas of our economy.

The testimony of Mr. Harrison F. Dunning, president of Scott Paper Co., was very well received by the Senate Commerce Committee, and the marketing practices of his company received praise from many proponents of this bill. In his testimony he referred to the question of existing legislation in the following remarks:

I would remind this committee also that Commissioner Larrick of the Food and Drug Administration and Commissioner Dixon of the Federal Trade Commission, in their ear-

lier testimony before the Subcommittee on Antitrust and Monopoly, both made it very clear that there is sufficient law on the books today to prevent any clearly deceptive practice in labeling or packaging and that they have ample power under present law to deal with such activities. They claimed they need the support of this bill to help them to eliminate confusion and thereby be able to prosecute their activities without the delays of formal rulemaking, or the necessities of case-by-case prosecution, or the necessity for judicial reviews on the record.

In other words, both of these agencies left the implication that they would like to be able simply to halt a practice solely on the basis of their judgment and wisdom and without the company involved having the privilege of making an issue of the matter. If this grant of arbitrary power to governmental agencies is the concept of the America that is to be, then it will be a dramatic departure from the principles that have made this country great.

As section 4(a)(3) (A), (B), (C), and (D) are worded the provision is mandatory and the fears of Mr. Dunning appear to be well founded.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 592

• Mr. DIRKSEN. Mr. President, section 4(b) of S. 985 reads as follows:

No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in non-deceptive terms the net quantity of contents: Provided, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

Apparently this section is aimed at a practice which certain individuals feel is a deceptive practice. This includes the use of such statements as "jumbo gallon" or "giant quart." Whether or not the use of such phrases has a tendency to confuse the customer may be debatable.

Again let me refer to existing legislation. Section 403(a) of the Food, Drug, and Cosmetic Act provides:

A food shall be deemed to be misbranded—if its labeling is false or misleading in any particular.

Section 5(a)(1) of the Federal Trade Commission Act provides for nonfood consumer commodities:

Unfair methods of competition in commerce, and unfair and deceptive acts in commerce are hereby declared unlawful.

Certainly this provision could be used to curtail the use of qualifying statements which are deceptive to the point of being regarded as unfair competition.

One witness developed the following information for the Senate Commerce Committee:

All packaged commodities are covered by the requirement of the model State weights and measures regulations, which require that "In no case shall a declaration of quantity be qualified by the addition of the word 'when packed' or any words of similar im-

port nor shall any unit of weight, measure, or count be qualified by any term (such as 'jumbo,' 'giant,' 'full,' or the like) that tends to exaggerate the amount of the commodity. (Sec. 3.9 of the Model State Weights and Measures Regulations.)

This model law has been adapted in 15 States and is being considered in others.

Primarily this section is one more example of pushing forth a mislabeled piece of legislation in an attempt to let the consumer think he is getting more than he really is. It is much like putting all of the matadors and the entire afternoon's roster of bulls in the ocean at the same time while encouraging the public to attend the melee by advertising the event as one of dramatic skill.

If there is a need to curtail the use of qualifying words attached to statements of net quantity of statements let us work with the laws that we have now. I suggest that we amend section 403 of the Food, Drug, and Cosmetic Act. This could be done by adding a subsection (n) to that section wherein we could prohibit the use of such qualifying statements.

I offer the amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 593

Mr. DIRKSEN. Mr. President, I would at this time like to introduce an amendment to S. 985 as reported by the Senate Commerce Committee. This amendment would eliminate from the proposed bill a section which when read together with other sections of the bill, would serve absolutely no purpose if its intent is as the authors state.

The particular section to which I refer is section 4(a)(1) which is found on page 16, lines 10, 11 and 12. This particular provision in S. 985 provides that in connection with section 6 of S. 985, regulations may be promulgated by either the Secretary of the Department of Health, Education, and Welfare or the Chairman of the Federal Trade Commission which would control certain aspects of the labeling of various commodities. It is aimed specifically at the placement of the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor.

Perhaps I may be so naive as to read a portion of section 403 of the Food, Drug, and Cosmetic Act which is found in title 21 of the United States Code at section 343:

SEC. 403. MISBRANDED FOOD—

A food shall be deemed to be misbranded—

a. If its labeling is false in any particular

b. If it is offered for sale under the name of another food

e. If in package form unless it bears a label containing—

(1) the name and place of business of the manufacturer, packager or distributor—

Does S. 985 have some hidden mystic which can improve on that? Is not the language perfectly clear? The Secretary of Health, Education, and Welfare certainly must have understood it. Located in title 21 of the Code of Federal Regulations, chapter I, subchapter A, part I, are the regulations which he has issued for the purpose of amplifying that law. Pertinent to the listing of the manufacturer,

packer, or distributor is a portion of section 1.8:

Food: Labeling; required statement; when exempt.

a. Where a food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as "Manufactured for and Packed by ----," "Distributed by ----," or other similar phrase which expresses the facts.

b. The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

c. If a person manufactures, packs, or distributes food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

d. The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

Unless there is some heretofore unexplained reason for its inclusion, I can see no justification for it. Only excess verbiage could result—with confusion its by-product. I, therefore, submit this amendment to withdraw section 4(a) (1) from S. 985.

Existing law adequately covers this area. The manufacturer, packer or distributor is presently required to identify the product. The label now must accurately represent the contents. It is considered to be misbranded if it provides a label which is a "false or misleading representation with respect to another food or a drug, device, or cosmetic." (FDC regulations, pt. I, sec. 1.7(a).)

Furthermore, the present regulations issued by the Secretary of Health, Education, and Welfare provide that—

The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling. (F.R.C. Regs. Part I, Section 1.7(b)).

Why this should be considered insufficient is beyond me. I would therefore urge that this provision be deleted from S. 985 as reported.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 594

Mr. DIRKSEN. Mr. President, section 5(c) (1) permits the Secretary of Health, Education, and Welfare and the Federal Trade Commission to use wide discretionary powers in regulating the packaging of consumer products:

(1) establish and define standards for characterizing the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity.

This permits those agencies to issue "commodity-by-commodity" regulations. If the appropriate agency determines that there is "significant variation" in the use of descriptive terms which identify size between competing products, a new standard may be established. To quote the majority report:

The authority could establish uniform standards for "small," "medium," and "large" packages in that commodity line.

Apparently, the authors of S. 985 feel that people are being misled by statements such as "family size," or "economy size." What unsettling doubts pervade the minds of our housewives when they encounter a mammoth soap package described as "laundry size." Making these packages standard will not lighten her household chores, will not decrease the amount of dirty clothes she must wash, and most important of all, will not save her any money. She makes her choice on the basis of personal preference, need and perhaps, shelf space. Perhaps our next legislative effort will be to set standards for the cabinetmakers to follow in providing adequate accommodations for the larger packages.

Let us look at the present law. Section 403(a) of the Food, Drug, and Cosmetic Act reads as follows:

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

A similar provision covers the labeling of cosmetics and drugs. Section 5 of the Federal Trade Commission Act provides:

Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

As one witness before the Senate Commerce Committee commented:

Present law does not authorize the Federal agencies to define the label terms that may be used to describe the quantity of the package, but if the terms which are used are misleading or deceptive the use can be prohibited under existing law.

This provision in S. 985 would transfer the authority to designate descriptive terms to be used from the individual manufacturer to the governmental body. It would seem logical that industry should not be restricted to the point that they cannot designate names for their own packages, even though those names be completely legal and fair.

If a package of soap, for example, is marked "family size" and would provide sufficient volume to be adequate for the average 4- to 5-member family, the labeling would not seem to be at all misleading. If however, the housewife with 12 or more children considers her family to be of average size no amount of labeling control will help her.

Therefore, Mr. President, I submit this amendment which would delete section 5(c) (1).

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 595

Mr. DIRKSEN. Mr. President, consistent with their attack on the use of any descriptive terms used in packaging which may have different meanings to different people, the authors of S. 985 want to control the use of the word "serv-

ing." Section 5(c) (2) would allow for the issuance of regulations which would standardize the amount that could be called a "serving":

(2) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed.

Supposedly our country's manufacturers and packers are either dishonest in such designations or they are incapable of determining just what amount of a given product would constitute a serving.

If they are unscrupulous and dishonest, how could they be stopped now? Section 403(a) of the Food, Drug, and Cosmetic Act states:

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

Section 5 of the Federal Trade Commission Act provides that:

Unfair methods of competition in commerce are hereby declared unlawful.

Presently, neither one of these provisions authorizes the agencies to define serving sizes, but both could be used to prohibit false or deceptive label statements of the number of servings. But we hear that the manufacturers are not dishonest but merely so inconsistent within each commodity line that the housewife is confused.

And how do we eliminate such confusion? How do we standardize what may constitute a serving for a given product? Aaron S. Yohalem, senior vice president of Corn Products Co., gave before the Senate Commerce Committee this explanation of the "serving" determination:

The best that can be done is to provide a guide for the consumer. Based on the experience of our home economists, we indicate a reasonable average serving or use. But we leave it to the housewife to decide what a "serving" is when her husband eats two 6-ounce bowls of soup, while her daughter eats only 3 ounces. She is used to making these "guesstimates"; she had to do the same thing when she bought the raw ingredients themselves.

We do not believe we can regulate the size of "servings", and we do not think the Government should try to either. It has to be an estimate based on consumer surveys and the results of the work in our test kitchens. The work we do must lead to the acceptability by the housewife. However, since the housewife is going to hold us responsible in any event, we believe we should have the right to use our best judgment, rather than being forced to use the estimate of the Federal Administrator.

Now however, if we should pass S. 985, Federal agencies will be our test kitchens and administrators will be our home economists. And when enough housewives are dissatisfied with the "servings" listed on a company's products, the vice president in charge of marketing will lose his job while the Government home economist will rest serenely in his civil service easy chair.

Imagine the drama unfolding as the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the

head of the Food and Drug Administration, and the Chairman of the Federal Trade Commission sit down to test the servings of spinach as prepared by the Special Assistant to the President for Consumer Affairs. When spiced with vinegar, the two Secretaries and the Food and Drug Administrator devour 6 or 7 ounces while the Chairman of the Federal Trade Commission only nibbles at 3 ounces and that only for the vitamin content. When covered with melted butter, the proportions consumed may be quite different—in keeping with attempted diets.

All of this, of course, will not be of any assistance to the housewife whose four subteenage boys have not yet become acquainted with the beneficial attributes of that fine vegetable.

Miss Dunham, a vice president of the General Foods Corp., in her testimony before the Senate Commerce Committee pointed out the futility in this type of Government regulation stems from the fact that "serving" indications on a label are not at all for price comparisons. She also indicated, quite appropriately, that not very humorous effects of such regulations may result.

Miss Dunham stated:

We are opposed on both practical and empirical grounds to the provisions of the bill which attempts to standardize . . . servings. Let me assure you that there can be no such thing as a standard serving. As a guide to the homemaker, we do indicate on many of our packages that she can expect a yield of so many portions of such-and-such a size—a half a cup or so many ounces.

But the concept of what constitutes a serving varies so widely among families that any attempt to set a national standard would be, in our judgment, wholly impractical. There are light eaters and heavy eaters, teenagers with insatiable appetites, and older persons on diets. Physical laborers need large portions, and office workers don't. The suggestion that somebody can decide in Washington what constitutes a serving of each of the thousands of food products in the supermarket has an Orwellian quality.

The inclusion of this in the bill, even as a discretionary provision clearly reflects a misunderstanding of the purpose of label information relating to number of servings or yield. Such information is not designed to provide the consumer with a basis for comparing prices at the time of purchase. Her basis for price comparison is provided rather by a combination of the net weight or net volume or yield plus her experience as to the difference in quality among various brands.

Having made her decision on that basis, she then turns to the serving information, much as she would to a cook book, as an aid in preparing her meals. Government dictation of serving size thus would not only be a completely unnecessary and futile exercise; it would seek to attach to serving information a significance which it was never intended to have.

Because of the dangers and the confusion inherent in section 5(c)(2), I respectfully suggest that it be eliminated from the bill and I offer an amendment for that purpose.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 596

Mr. DIRKSEN. Mr. President, among the discretionary powers which S. 985

grants, is the power to closely regulate the label representations that the product is being sold at lower than ordinary price:

Sec. 5(c)(3). Regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents; and

This would in effect severely restrict the manufacturer from printing a "cents off" announcement on the package or the label. It also inhibits the use of such label designations as "economy size" or other phrases which indicate a lower price per unit cost to the purchaser.

Section 403(a) of the Food, Drug, and Cosmetic Act presently provides that—

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

Section 5 of the Federal Trade Commission Act states:

Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Department of Health, Education, and Welfare brought proceedings in 1962 against a manufacturer for falsely labeling a package as the giant economy size. They alleged that this was misbranded because the smaller sizes sold for a lower price per ounce. The defendant corporation entered into a consent decree and agreed to discontinue the use of such labeling.

The Federal Trade Commission has completed investigational hearings in the area of cents-off labeling in the coffee industry. An announcement is expected to be forthcoming from that agency in the near future. Presumably, any company which continues in a practice which runs counter to the expected guidelines will be subject to a complaint procedure brought under section 5 of the Federal Trade Commission.

Miss Dunham, a vice president of the General Food Corp., voiced her opposition to the prohibition:

Legislation that prevents the manufacturer from attempting to bring about a lower retail price even for a short period can hardly be considered in the consumer's interest. As was brought out in earlier hearings, research shows that the vast majority of consumers favor cents-off promotions, and only a very small minority—less than 10 percent of those surveyed—feel that they should be prohibited as deception. Studies which we have conducted indicate that the great majority of retailers do indeed price our products so that the savings on the label are realized by consumers.

We oppose prohibition of "cents-off" labeling not only because the practice is beneficial to consumers but also because it is a legitimate marketing device which is very important to food manufacturers. The committee should realize that companies like ours compete, in many cases, with retail grocery organizations which pack their own products. The power to price rests with these retailers—our products as well as theirs. If the manufacturer who seeks to achieve price reductions on his product at the retail level is

legally prevented from doing so, the result can hardly be advantageous for either the manufacturer or the consumer. This is especially true if no similar prohibition applies to the retailers who pack competing products. It may well be that intensive price competition sometimes confuses the consumer. But it is an irrefutable truth that price competition lowers prices, and lower prices are one of the things the consumer looks for in the marketplace.

Mr. Lee S. Bickmore, the president of the National Biscuit Co., expressed the same feeling in regard to this matter:

Another provision of this bill would prohibit cents-off promotions by manufacturers.

Again, as a salesman and businessman I feel strongly that the cents-off promotion is a legitimate and ethical selling tool. I say this in spite of the fact that in my company we use this type of promotion only on a few minor items. I am opposed to outlawing its legitimate use merely because it may be abused by a few unethical manufacturers or retailers. The provisions of existing law provide ample authority for taking action against label statements as to retail-price savings which are found to be false or deceptive.

The question commonly asked by proponents of this legislation is cents off what? It seems to me that the answer to this question is cents off the regular price normally charged for the product by the retailer, and most packages say so clearly. The manufacturer who marks his package 5 cents off makes a corresponding reduction in the price of his product so that the retailer can sell it at a price that is 5 cents less than his regular price. The manufacturer's purpose is to get people to try his product in the hope that—once they have tried it—they will like it and continue to buy it.

Such promotions are relatively inexpensive for the manufacturer because the cost can be calculated in advance and the package on the shelf is easily perceived by the housewife. Small manufacturers thus can compete on the shelf with a sampling opportunity even though they might not be able to approach the advertising impact of their larger competitors. I think prohibition of cents off would hurt the small businessman much more than large corporations.

Testimony submitted to the Senate Antitrust and Monopoly Subcommittee by the Association of National Advertisers indicated conclusively that housewives like the cents-off promotion and prefer it to other types of offers of a similar nature. They take advantage of opportunities to try other brands at less than usual cost. The results of that survey are contained in the record of the previous hearings before the Judiciary Committee.

It has been indicated upon the very occasion of misuse of cents-off labeling, existing law has been adequate. To go to the extremes which S. 985 does would be to deprive the consumer of beneficial savings. I personally think that is going too far and thus introduce this amendment to delete section 5(c)(3) from S. 985.

Attached is a 20-page memo on cents-off which can also be used herein, if needed, which reads as follows:

As reported by the Senate Commerce Committee, S. 985 contains a provision which relates to "cents-off" appearing on the label of any commodity which falls under the bill. Sec. 5(c)(4) contains authority for either the Secretary of Health, Education and Welfare or the Chairman of the Federal Trade Commission to issue regulations which may severely curtail or possibly eliminate the use of "cents-off" promotions printed on the label by the manufacturer.

When this bill was before the Senate Antitrust and Monopoly Subcommittee in the form of S. 387, this provision was not discretionary, but mandatory. Even though it is now discretionary this long established practice is in danger. The Individual Views of Senator EVERETT MCKINLEY DIRKSEN which accompanied the Report of that subcommittee were directed at the mandatory provision, but are just as appropriate when directed at the discretionary provision contained in S. 985 as reported. It was there stated by Senator DIRKSEN:

"Why the sponsors of this bill are so adamant in insisting on this provision is difficult to fathom. Their explanation that the manufacturers cannot assure that cents-off discount will be passed on to the consumer does not stand up in the face of the overwhelming testimony of the people who are in a position to know. The only inference that one can get from those who are opposed to permitting the present legal practice of cents-off promotions is that they do not have sufficient faith that the retailers of America will pass to the consumer the cents-off discount price. The evidence is overwhelming in favor of the trustworthiness of the retailers and I have faith in them. The evidence is emphatic that the consumer benefits under the cents-off promotion."

Quoted in those individual views was the testimony of Mr. Irston Barnes, professor of political economy, Graduate School of Business, Columbia University. His testimony was presented March 21, 1963, and appeared at page 385 in Part I of the Antitrust and Monopoly Subcommittee Hearings on S. 387. He stated as follows:

"I would, therefore, strongly recommend elimination of subparagraph (4) from paragraph (c). I think that the cents-off promotion has a legitimate place in contemporary competition. (a) It is an effective means by which the manufacturer, having made the consumer aware of his product, is able to induce the consumer to change her buying habits and try this product. (b) The alternative to the cents-off promotion as a device for inducing new consumers to experiment with a product is the use of couponing and door-to-door sampling, both of which are extremely expensive, one might almost say economically wasteful, and neither of which reaches the whole market in the way in which a cents-off promotion can reach all consumers who can be interested. (c) To prohibit cents-off promotions would be to impose a serious obstacle on the promotional activities of the smaller competitor, who frequently can afford this form of price competition, where he cannot afford either couponing, sampling, or extensive advertising on a basis which will give him a fighting chance against his larger and well established rivals. (d) Finally, I would urge that cents-off promotions are a form of genuine price competition, that they are used periodically as a special sale to increase turnover and volume, and that they are beneficial to the consumer, who is able to use the cents-off promotion to stock up on the product. (e) The cents-off promotion may also be a means of sparking a permanent reduction in prices, particularly where the product is one with a relatively elastic demand. Through use of the cents-off promotion, a manufacturer may discover that he has a larger and more profitable market at a lower price than he has with his former higher price. This kind of probing of the market should be encouraged; it will not be encouraged by a prohibition of cents-off deals.

"I am not deeply concerned about the possibilities of deception inherent in the use of cents-off promotions. Wherever this does become a problem, it can be dealt with effectively by the Federal Trade Commission employing the precedents created in its successful campaign against fictitious pricing in general. I see no need for a mandatory prohibition of this sort in paragraph (c)."

Also quoted in these individual views was Mr. E. Scott Pattison, Secretary and Manager of the Soap and Detergent Association. His testimony was given to the same subcommittee on April 24, 1963, and appeared at page 598 of part II of those printed hearings. He felt that present law adequately covered any false "cents-off" labeling. His remarks regarding this subject were as follows:

"Now, my third point has to do with 'cents-off' labeling, which S. 387 would specifically restrict. In a previous statement before the committee, Mr. A. N. Halverstadt of the Procter & Gamble Co. testified to the effect that retailers do pass on to the consumer the 'cents-off' reductions which the producer makes possible from time to time as one of his competitive tools. But more significant than a manufacturer's opinion, or certainly of my opinion, is that cents-off provision was opposed by a strong proponent of the present bill. Mention was made this morning of reading the testimony of Dr. Irston R. Barnes, economist of the Graduate School of Business of Columbia University.

"I am glad to say I did read Mr. Barnes' testimony, and he said in regard to this cents-off provision: 'I would strongly recommend elimination of subparagraph (4) from paragraph (c) * * * I would urge,' said Dr. Barnes, 'that cents-off promotions are a form of genuine price competition * * * and that they are beneficial to the consumer.'

"I will not repeat Dr. Barnes' economic arguments in full—but would note that he feels any deception arising out of the improper use of cents-off promotions can be adequately met by existing laws against fictitious pricing."

The general counsel of the Association of National Advertisers, Mr. Gilbert Weil, appeared to testify against this provision in S. 387 on April 25, 1963. His testimony which appears on page 647 of Part II of the printed hearings was as follows:

"This is so crucial to responsible deliberation upon the bill that I must take an additional moment to illustrate the pitfalls of personal impressions by one specific example. You have heard what must seem to you an overwhelming expression of consumer antipathy toward 'cents-off' promotions; so much, in fact, that you may believe that consumers generally dislike them. But that's because relatively few of the people who are satisfied with something as it stands become vocal on the subject. It is normal that you, as legislators, should hear from people who want things changed more than from those who are content to leave them as they are.

"With that in mind, consider the report by Alfred Politz Research, Inc., which Mr. Greene has just presented to you. That survey made among principal women shoppers showed that of such women 61.7 percent like cents-off promotions best, and only 2.8 percent liked them the least. One-half of this 2.8 percent felt that way because they didn't believe the representation was true in whole or in part. You will see the point I am coming to.

"Given the fact that there are roughly 52 million principal women shoppers in the country, your subcommittee could have heard complaints that 'cents-off' labels are phony from as many as 720,000 women and still have been within that small minority of 1.4 percent of the total population of principal women shoppers. I don't have any idea as to how many such complaints you may actually have, but I would be surprised if they came anywhere near 7,000, much less 700,000.

"Now, of course, even 720,000 women should not be left unhappy, if it is not necessary to do so. But it does not seem sound legislative policy to bow to their dissatisfactions at the expense of the 31,876,000 women shoppers (61.3 percent) who like 'cents-off' promotions best of the special promotions (and who presumably do not find them

phony); or to go counter to the views of the 33,176,000 women shoppers (63.8 percent) who believe that Congress should not pass a law prohibiting the 'cents-off' promotion."

Equally disturbed by the inherent attack on "cents-off" promotions as contained in S. 387 was the Vice President of Procter & Gamble Co., Mr. Albert Halverstadt. He stated his objections and a very interesting colloquy between Mr. Halverstadt and Senator HART resulted:

"The last mandatory regulation I would like to discuss is the one prohibiting manufacturers from using cents-off packages. The principal reason for this provision of the bill, as we understand it, is that when a manufacturer sells a price-off pack he, the manufacturer, has no absolute guarantee that the retailer will, in turn, pass that saving on to the consumer.

"On this point, we would like to be quite clear. We think this provision of S. 387 is harmful. We are convinced that the effect of this provision would be diametrically opposed to the interest of the consumer in that it would cost her more money. We would suggest that any action which increases their weekly grocery bills is certain to be unpopular with housewives.

"We believe that the reasoning used in support of this proposal is based on unwarranted fear or incomplete information.

"We readily admit that the manufacturer does not control the retail price of his product—except to the extent that fair trade legislation may allow for the setting of a minimum price. It is our experience that retail price control by the manufacturer is not necessary to insure the savings to the housewife that the cents-off promotion promises. The manufacturer merely reduces the price of this product to the retailer so that the retail merchant can pass the reduction on to his customers without sacrificing any of his normal unit profit. The key issue here seems to be whether retailers do, in fact, pass on the cents-off savings to their customers. We know from years of experience that the retail trade consistently passes on to the consumer the savings of our special promotion packs. If a retailer normally sells an item for 34 cents and a package is marked 5 cents off, the retailer almost universally drops his price to 29 cents.

"I have here advertisements for grocery stores which have appeared in newspapers all around the country in recent months. These have been selected at random from thousands of such ads which have featured one or more of our price-off offers. In every instance, these ads show that the retailer has reduced the price of the product by at least the amount of the cents-off reduction. In several instances, the retailer has elected to lower his retail price of the promoted product by more than the cents-off reduction in order to have an attractive traffic-building feature item in his store.

"These are a few examples (indicating). These are reductions greater than the amount specified on the price-off pack.

"Senator HART. They will be made a part of the file.

"(The documents referred to will be found in the files of the subcommittee.)

"Mr. HALVERSTADT. Yes, sir. I would be pleased to have that.

"I might say in some cases where there is a 5-cents off marked on the pack, the retailer, for example, will reduce the price to an amount that is as much as 15 cents off the regular shelf price. The particular features that I mentioned in connection with this exhibit are marked in red pencil. The printed price and the 5 cents off or 3 cents off, whatever the amount is, that is mentioned and we have also penciled in what the retail shelf price normally would be on that item in the store through the check made at the same time.

"Senator HART. Thank you.

"Mr. HALVERSTADT. Here are reductions which are exactly the same amount as specified on the package.

"(The documents referred to will be found in the files of the subcommittee.)

"Senator HART. For clarity, is the first batch—

"Mr. HALVERSTADT. They are marked.

"Senator HART (continuing). Instances where the reduction was even greater than the other? Is that the reason you made the comment?

"Mr. HALVERSTADT. Yes.

"Senator HART. About the second batch?

"Mr. HALVERSTADT. We cannot believe that the money savings which result are anything but welcomed by the American housewife.

"The examples I have just given you are from our own experience. I think, however, that our experience is not unlike that of other grocery product manufacturers. We think it stands to reason that manufacturers would not incur the expense of such promotions if the money savings were not passed on to consumers.

"We recognize, of course, that there may be some instances where a manufacturer might put cents-off labels on virtually all of his products in order to imply a cost reduction which does not actually exist. We would readily agree that such a practice is deceptive and that it should be and can be stopped under existing laws."

Yet another quote from the individual views of Senator DIRKSEN was a statement made by Mr. J. Arnold Anderson, Vice President of Safeway Stores, Inc.:

"Misuse of 'cents off' promotions: We do not condone misuses or abuses of 'cents off' promotions. The raising of a 'regular' price for the purpose of accommodating a cent-off deal is obviously a misrepresentation.

"We may interject that existing law is sufficient under FTC Act to punish offenders of misrepresentation in 'cents off'.

"However, we recognize that certain cents-off promotions do tend to move products—very often to a greater extent than a special or regular price reduction of the same amount. * * *

"Generally, we are not favorably inclined toward cents-off promotions, but we are not overly concerned by them. We believe their widespread use at present is but a transitory phase of the more or less cyclical rise and fall of such promotional techniques, similar to the use of couponing so much in vogue some time ago. It is inherent in our competitive system that new merchandising ideas arise from time to time, to continue until their benefits are exhausted and they are replaced by other devices—but with the consumer the ultimate arbiter of what are actual improvements in value."

Mr. Lloyd E. Skinner, President of the National Small Business Association and President of the Skinner Macaroni Company, Omaha, Nebraska, stated during hearings held by the Antitrust and Monopoly Subcommittee at page 739, Part 2, April 26, 1963, as follows:

"As an afterthought I added this, perhaps I should add that even though originally I was not going to say anything about the cents-off merchandising on packages, I believe on its face it is not a deceptive merchandising device. There are probably a few who keep a continuous cents-off package and a complaint by the distributor, I am talking about the chain or the independent retailer, to regulatory agencies concerned could certainly bring an end to this abuse by investigation and showing they never have established a previous price.

"Now, there was a reason for these cents-off packages coming into being, and I might just as well mention it.

"At times the manufacturer feels that if he can reduce the price, he can get Mrs. Con-

sumer to try his quality and his product and see the way it is made."

"Now, naturally they gave a deal to the wholesalers and the jobbers. Generally, the chains cooperated but with some of the wholesalers and the—and I don't mean this against them—they didn't always pass this down to the independent retailer, and so the manufacturer went to the other device or preprinting it on the package, and then giving them the deal and, of course, this forced it all the way down to your retailer, you see.

"Senator HART. I am glad that you decided to say something about this because this is the first explanation of its kind we have had.

"Mr. SKINNER. Nobody wants to say anything about anybody else in their business and certainly not all the jobbers did this but when there are hundreds and thousands of items they look for an opportunity to make money and they may feel that maybe this time they don't have to pass this down, you see, and this is how cents-off promoting got started as a merchandising device.

"Actually, I don't think there is anything wrong with it if it is not abused except as you have pointed out, I believe, in continuous use. If the distributor wants to report that to the regulatory authorities—he is the one who would know whether it was really a cents-off or not, because he has been selling it at a certain price. Some distributors probably don't always play fair, either.

"Senator HART. There is always this problem of what would my relations be tomorrow if I talk today.

"Mr. SKINNER. That is right. That is right.

"Senator HART. Sir, thank you very much."

Mr. William R. Tincher, Vice President and Special Assistant to the President, Purex Corp., Ltd., Lakewood, California, states as follows on page 729, Part 2, April 26, 1963:

"Another awesome inconsistency appears in S. 387. From what I read, supporters of this bill believe that any competition other than straight price competition is bad and wasteful and that all possible price advantages must be given to the consumer.

"Yet this bill would outlaw packaging being used to reflect cents-off sales and other price-reduction techniques widely used by manufacturers today. Gentlemen, these techniques are price competition. These methods of the producer reaching the consumer directly with price reductions are to the consumer's benefit. If they are outlawed, the consumer is hurt. It is as simple as that.

"And, if they are outlawed, the small and the potential new competitive entity will be hurt far worse than the larger producers—a result diametrically opposed to our anti-trust philosophy, history, and practice. Existing laws prohibit, and correctly so, any other avenue a producer might utilize to guarantee the passing on of price reductions through the retailer to the consumer." Paul S. Willis, President, Grocery Manufacturers of America, Inc., New York, N.Y., Page 232, Part 1 of the Packaging and Labeling Hearings on March 19, 1963, stated:

"While there may be instances where cents-off promotions could cause confusion, such instances must be very isolated. We say that because this type of promotion is very popular with consumers everywhere as is evidenced by their continued purchases and expressed preferences. Cents-off promotions provide a quick way for manufacturers to offer their products to consumers at a reduced price.

"The popularity of any promotion is measured by its consumer acceptance. Cents-off deals have proven their popularity, and the homemakers who like them are entitled to have them. Freedom of choice is basic to our free enterprise system and a great American privilege which must be preserved. Any attempt to outlaw legitimate promotions such as cents-off would surely meet with mass consumer resentment.

"This industry, as you know, has enjoyed a fabulous growth. In the last 20 years it has grown from \$16 to \$80 billion annually. Promotions which are very popular with American consumers, have contributed much to this growth.

"Certainly we do not condone any misuse of promotions, and where it occurs corrective action should be taken.

"Pursuing further this matter of cents-off promotions which some people apparently don't like, undoubtedly there are others who do not like premiums, or coupons, or prizes or deals. What is to stop them from asking Congress to outlaw those promotions? Where do we stop? Any prohibition of the use of legitimate and ethical promotions is contrary to our American system of free enterprise which has made possible our world famous high standard of living."

Mr. Willis continued on page 241:

"... Mr. Chairman, that often times people form a personal opinion based on something rather, but the controlling factor in this country is the mass consumers. Any time you go contrary to what the mass consumers like, you will be hurt.

"In Connecticut not long ago, for some time there was a resentment by some members of the trade about the use of trading stamps. Somebody was influential enough to get a legislator to introduce a bill to outlaw trading stamps. When word spread about that effort, the women organized a mass meeting of protest and that was the end of that proposed bill. Similar action was taken in Tennessee and in Colorado.

"Anytime anybody goes against why mass consumers desire and will buy, they are going to find an uprising. The same thing applies to cents-off deals. So long as they are popular with the consumer, the manufacturer will use them, and the retailers will handle them. These promotions come and go. Maybe the bloom will be off the cents-off deals and something else will come along, but they are a part of the family of promotional tools, and I am opposed to outlawing a promotional tool which is a part of our free enterprise system of doing business. If there are abuses, let's correct the abuses."

Mr. Harrison F. Dunning, President, Scott Paper Company, pages 307-308, Part 1 of the Packaging and Labeling hearings on March 20, 1963, testified as follows:

"Senator RUBINOFF draws the conclusion that we take a position similar to that taken by this committee, and so we do with respect to one particular item: Cents off the label, but for quite different reasons. You will note that in our pledge to our customers that we will not indulge in that kind of activity on our regular established products, we did reserve the right to use such a merchandising procedure, following the initial introduction of a new product or when offering a vastly improved old product. We made this reservation because in such circumstances consumer sampling is a requisite to consumer knowledge of a product or product improvement and cents off the label is an effective instrument in encouraging shoppers to try a new or improved product at least once. She then makes her own judgment of its value for the purpose of future purchases.

"But it is here that we have to take leave of Senator RUBINOFF's position, because we reached the conclusion that we would no longer indulge in cents off the label, coupons or unrelated premiums on our established product line for entirely different reasons than those which he imputes to us, and I would like to make this point crystal clear to this committee at this time.

"The real reason why we disapprove of this kind of merchandising is not because we think the consumer is deceived by it, but because our experience and our research have convinced us that such merchandising tactics on an established brand do not lead

to permanently increased sales but only alter temporarily the competitive division of the volume of business that already exists for that type of product.

"With tremendous unused capacity in our industrial setup and with almost 5 million people back to work.

"I can't help but say, despite our own disapproval of the cents-off the label technique, that eliminating this one practice by law is not the sound approach if you think a problem exists. It is here that we begin to find ourselves at odds with this bill, for if you are bent on this one elimination, do you stop with that? Do you also eliminate contests with prizes? Why should a lot of people, in effect, pay for the prizes only a few receive? Do you eliminate the premiums? How does a customer know if she sends in two box tops and \$1 that she is getting full value received? Do you eliminate the coupons? Do you know—and does the customer know—that an additional 2 cents or so has to be paid to the retailer for the processing each coupon, a 2 cents that just has to ultimately find its way into the cost of the product? Do you eliminate stamps in retail grocery stores? These stamp plans can increase the overall cost of grocery store purchases by as much as 2 percent to 3 percent. How does a customer know that the premiums she gets for her stamps are worth the price she has paid for those stamps?

"So you see, it isn't as simple as eliminating cents off the label, as your bill proposes. Even if you eliminated all these other merchandising promotions, which I don't think you should do, new ones you never even thought of would appear almost overnight."

When S. 985 was before the Senate Commerce Committee various government department heads submitted comments. Among them Secretary Freeman of the Department of Agriculture submitted a letter dated April 27, 1965. In this letter he stated that "The requirements of S. 985 are not materially different than the existing regulations under the Food, Drug and Cosmetic Act governing the labeling of food. . . ." His letter also points out that his department currently is involved with the "cents-off" practices and it would appear that his letter is self explanatory:

"There are two provisions of the bill which would constitute a significant difference from the Federal meat and poultry inspection acts and the regulations issued thereunder. These provisions, not present in the meat and poultry acts, are the mandatory prohibition of cents-off labeling by the manufacturer and the administrative authority to establish reasonable weights or measures by which a commodity shall be distributed for retail sale.

"We have handled on a case-by-case basis the cents-off labels submitted for approval by manufacturers of meat and poultry products. Relatively few such labels have been submitted for approval. They have been approved when the manufacturer submitted satisfactory evidence that there was no change in the product formula and quality, and when the labels showed the base price to which the 'cents off' would apply. Only temporary approval (6 months limitations) is given to a cents-off label. We are currently reviewing the matter to determine if further safeguards or limitations, within the scope of the meat and poultry inspection acts, should be adopted."

The Department of Justice also submitted its comments. At the time the "cents-off" provision was mandatory. While Justice's suggestion was merely to make the provision discretionary, the suggestion itself illustrates that department's concern with the anti-competitive effects of such regulations:

"Section 3(a)(5) would flatly prohibit 'cents-off' labels. In our view such a prohibition is inadvisable for price competition

is certainly a desirable factor in the market place. It is therefore suggested that this provision of the bill be deleted and in its place section 3(c) be amended to add a paragraph '(7)' authorizing the promulgation of regulations to deal with the 'cents-off' question. In the exercise of such an authority, the Secretary of Health, Education and Welfare on the Federal Trade Commission, as the case may be, could permit the use of such labels under circumstances which would assure against consumer deception and pursuant to appropriate safeguards."

We contend that the same dangers which Justice saw in a mandatory provision would be inherent in the discretionary provision.

Mr. Banzhaf, Vice President of Armstrong Cork Company, appeared before the Commerce Committee on April 29, 1965, as a spokesman for the Chamber of Commerce of the United States. His exchange with the committee points out the popularity of "cents-off" promotions with the consumer.

Mr. BANZHAF. Senator, I believe that there are many studies that show—good validated studies that show the consumers do think they are getting a bargain from a cents-off promotion, and it is very popular. I think that the previous testimony given on the predecessor bill has been quite well demonstrated if you examine the testimony. I think Opinion Research Corp. has testified, or Alfred Politz, to that effect. There have been a number of studies that have been made, demonstrating that a great preponderance of the consuming public likes them and they believe they do represent a value.

"Senator NEUBERGER. It is getting to the point where they have no choice. It is awfully hard to go to a grocery store and find something that does not have 'cents-off' on it.

"Mr. BANZHAF. I think if you look very carefully you find that is not true."

Mr. Peter W. Allpont of the Association of National Advertisers submitted a letter dated April 29, 1965, to the Senate Commerce Committee in which he referred to a survey conducted by Alfred Politz Research, Inc., as to the popular acceptance of "cents-off" promotion. In it he stated:

"The hearings on S. 387 showed clearly that there is no popular demand for additional legislation in the consumer area. The series of consumer conferences sponsored by the Federal Government and reported upon in detail by Mrs. Esther Peterson, special assistant to the President for consumer affairs, also showed clearly that consumers in general are well satisfied with the wide choice and the high quality of package goods which they purchase daily in the marketplace.

"One of the most valuable research efforts to determine consumer preferences is 'Women Shoppers' Opinions of Special Offers,' a survey conducted for ANA by Alfred Politz Research, Inc., in 1963. The techniques employed by the Politz organization in arriving at these results are the ones used by the Federal Government, including the Bureau of the Census, the Department of Interior, and the Internal Revenue Service, all of which have employed the Politz organization. The results of that survey showed that women shoppers overwhelmingly prefer cents off to any other type of promotion device.

"In response to questions, the replies were:

	Percent
"Like cents-off sales 1st or 2d best.....	80.3
Like coupons.....	57.2
Like premiums.....	42.3
Like contests.....	6.6
Like cents-off sales 1st, 2d, or 3d best..	90.7
Like coupons.....	84.9
Like premiums.....	83.9
Like contests.....	17.8

"Women shoppers were asked whether or not Congress should pass a law prohibiting cents-off promotions. Their opinions were:

	Percent
Think Congress should not pass such a law.....	63.8
Think Congress should pass such a law.....	8.9
No opinion.....	27.1
Not reported.....	.2

"A copy of the survey together with the explanatory testimony of Mr. Jerome Green, of the Politz organization, is attached herewith. We have taken the liberty of sending copies of this survey to all members of the Commerce Committee in the hope that it might be of some value to them.

"Without belaboring the point, it must be clear that this study and the other studies undertaken by individual manufacturers, by magazines, and other associations overwhelmingly support our position that S. 985 would serve no useful purpose. On the contrary, there is voluminous testimony in the record that the bill will tend to increase rather than decrease the prices of many commonly produced consumer items. Earlier hearings brought out that rigid enforcement of the proposed regulations governing package sizes and shapes will require heavier investment and raise the prices of many items at the retail level. It would deny a careful and thrifty housewife the advantage of cents-off promotion, and as we have seen, this is the one type of promotion which such women shoppers prefer.

"To summarize, the ANA believes that S. 985, despite the evident good intentions of its sponsors, would be an unnecessary law since there is little if any evidence of the widespread abuses which it proposes to check, and where there are such abuses, Federal and State laws are already broad enough to deal with them. The proposed law would be costly to the consumer, costly to the producer, and costly to the Federal Government.

"For these reasons we respectfully request that the Senate Commerce Committee withhold its approval of the proposed legislation."

In concluding his views on "cents-off" promotions and viewing the drastic effect S. 387 would have had, Senator DIRKSEN stated:

"Many others gave excellent reasons why the 'cents off' promotion is definitely an advantage to the consumer in getting a price discount. The record reveals that any consumer who is purchasing a cents-off product can easily determine if the product is really being sold at a discount price. Most retail stores have a price tag of the original price plus the discount price, and further the consumer can compare two competing products, both selling originally at the same price, with one carrying the 'cents off' showing the discount price, and the other without a cents off showing its regular price.

"But more important to us is the fact, and it has been stated many times, that any retailer who attempts to cheat the consumer on a 'cents off' promotion will be caught in the act by the consumer who averages two trips to the market place per week."

While S. 985 has changed the provision from a mandatory one to discretionary the same dangers appear. The effect on the consumer would be the same—a loss of a legitimate promotional activity which saves the housewife money.

The ACTING PRESIDENT pro tempore. The amendment will be received, and will lie on the table.

AMENDMENT NO. 597

Mr. DIRKSEN. Mr. President, under section 5(c)(4) the Food and Drug Administration and the Federal Trade Commission are authorized to adopt regulations for particular commodities to:

(4) require (consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended) that

information with respect to the ingredients and composition of any consumer commodity (other than information concerning proprietary trade secrets) be placed upon packages containing that commodity.

Presently, the Food, Drug, and Cosmetic Act provides:

Section 403(1)(2) A food shall be deemed to be misbranded . . . unless its label bears . . . the common or usual name of each . . . ingredient.

In the event that a particular food has been "standardized" under section 401 of the Food, Drug, and Cosmetic Act, the manufacturer may declare only those ingredients which are specified in the established "standard." This provision seems to wisely acknowledge the fact that perhaps all ingredients need not be listed while still maintaining nondeceptive label. That section 403(1)(2) is adequate law in relation to food goes without saying.

Besides the fact that existing law is adequate, one of the witnesses before the Senate Commerce Committee pointed out two other drawbacks in this provision of S. 985. For one thing, the nonfood commodities should not be placed in the same restrictive category as food items. The listing of ingredients in most cases would be so technical as to be of no value or interest to consumers. The other point was as follows:

This subsection goes substantially beyond existing law, for the agencies could require that additional information about the ingredients be stated on the label in order to facilitate comparison of competing products. Such additional information (for example, origin of ingredients, their relative amounts in the product, or their purpose in the product) would be extremely costly, if not commercially impossible, to declare on the label and would freeze products to that formulation declared on the label. Any consumer benefit would be minimal or nonexistent and product development would be seriously curtailed.

Mr. Murphy, president of Campbell Soup Co., appeared before the Senate Commerce Committee. In his prepared statement Mr. Murphy expressed his very strong sentiments against this particular provision:

This is an almost complete blank check for administrative control of labeling. There is no limit to what an imaginative administrator might require to be placed on the label, so long as there is consistency with Food and Drug regulations and proprietary trade secrets are protected.

He might conclude that the consumer would be interested in the percentage of each ingredient present, the identity of spices, the particular variety of each ingredient, the geographical origin of ingredients, the procedures by which ingredients have been processed, et cetera.

He would have complete control over the position and prominence in which such information would have to appear on labels.

Very little has been said about this section of the proposed bill, but I regard it as potentially one of the most dangerous.

I might add we do not find too much solace in the phrase protecting proprietary trade secrets. This is desirable of course, but we can foresee countless arguments as to what is a trade secret.

The advocates of S. 985 say that the manufacturers have nothing to fear; the people given authorization under this bill

will not issue any regulations which would be damaging. The Government offices are staffed with reasonable men. Well, I might say that to the extent these reasonable men issue reasonable regulations they will only be duplicating existing law in this area. It is the extended authority, which the proponents say will not be used, that presents the problem. What a contradiction. "Give the FTC and the FDA the authority—but of course they won't use it," say the backers of S. 985. This is just not a very intelligent way to approach the regulation of an important segment of our economy.

We have here another example of the lack of understanding of the problem. The proponents of S. 985 say on the one hand that the consumer can no longer rely on the "if not friendly at least familiar face" behind the counter. On the other hand they point to the housewife who does not have time to spend reading complete labels on the various items in a large supermarket. No mention is made of the differences in shopping time or the difference in the ease of shopping these days as opposed to yesteryear. But more pertinent to this particular section is a very basic misapprehension as to the "average consumer." They assume that when the man with the "familiar face" held up a hand full of green beans the prospective purchaser, knew what she wanted and had past experience in preparing green beans for her family. No such assumptions are made for the supermarket shopper, however. The advocates of S. 985 appear to consider every trip to market as the first one, with the consumer bringing no prior buying or cooking experience.

I am not claiming that they consider the average consumer something of a moron. I am asserting, however, that they view the act of purchase in a supermarket as a brand new experience with absolutely no indication of prior experience or personal preferences or special needs. The occasion of purchase and sale does not take place in the test laboratory of the Senate Commerce Committee, or in the purified atmosphere of our Federal agencies.

Because section 5(c)(4) has absolutely no purpose which it can serve beyond its contribution of confusion to the regulatory field, I propose by amendment that it be eliminated.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 598

Mr. DIRKSEN. Mr. President, under the name of "truth in packaging," S. 985 is presented to us as the protective shield for consumer interests. As in a crusade the forces are rallied under banners which proclaim "truth" and "honesty" for the marketplace. With a burning desire to save the housewife from trickery and fraud at the supermarket, the proponents of S. 985 stand shoulder to shoulder stripped of all but zeal, to uphold standards of honesty and integrity.

Now, this is a very good battle tactic. Who dares to oppose honesty? Where is the man who is so ruthless that he

would not rush to the assistance of our lovely housewives? We will certainly have a difficult time trying to find the person who will take a stand to perpetuate fraud or who will encourage dishonest practices which drain the housewives' grocery funds in clandestine fashion.

In an effort to insure "truth in packaging" perhaps we should begin with the popular title of this bill. How is it going to save the consumer any money? How will it aid the shopper in choosing between competing brands? How will it encourage competition to creatively serve the consumer?

Section 5 of S. 985 provides for hearings which will determine just how difficult it is for the consumer to compare prices on a per ounce or per unit basis. Should the agency decide that the computation is too difficult then regulations are to be issued which would standardize the size of packages for the particular product line.

Section 5(e) plays a part in this standardizing process. After the appropriate authority announces, pursuant to 5(d)(2) that regulations will be issued, the members of the industry have 60 days in which to come forward and "volunteer" to agree upon standards. So you see we now have two very fine platitudes. First, in the consumers' interest we are going to correct manifest confusion, and second, in very fair fashion we will let the manufacturers set voluntary standards. It is my contention that this procedure will not help the consumer at all and that the voluntariness is highly suspect.

Once the proper authorities decide that standards must be set, how voluntary will the resulting regulations be? It is my feeling that the manufacturers will be faced with a governmental mandate. They must develop standards which the Government will approve of. This is much like the drill sergeant asking for volunteers to dig a trench.

But more important, what would their voluntary product standards do for the consumer? In terms of making price comparison easier, these standards would have absolutely no effect. The housewife would still be faced with fractions and equations dealing with something other than whole numbers.

In the area of greatest concern, prices, this process of product standardization would have its greatest effect. Manufacturers would face incredibly high costs in retooling and re-equipping their plants in order to comply with standardization. The president of the Kellogg Co. presented some pertinent facts and figures in his testimony before the Senate Commerce Committee:

In the testimony in 1961-63 hearings, the economies made possible by packing a number of different products in the packages of the same size were discussed. Products which were mentioned were biscuits, crackers, canned peaches, spaghetti, and others. The same economies are available in cereals.

Kellogg Co. uses one size package for 6½ ounces of Special K, high-protein cereal; 10 ounces of Sugar Frosted Flakes; 10 ounces of Pep Wheat Flakes, and 14 ounces of Raisin Bran. But putting a number of different cereals in the same size package, we are able

to make one package line do the work of many, without making changes in the machinery between runs, on different products. The economies are considerable.

We estimated in 1963 it would require an additional \$3 to \$6 million to produce the same volume cereals depending on the standardized weights or volume prescribed by the regulation. We now estimate that we would have to spend \$4,360,000 in capital equipment and incur an additional operating cost of \$2,050,000 a year, not counting the added depreciation, to achieve compliance with a standardizing regulation.

This is why net weight comes out occasionally in fractional ounces. For instance, if we want to take advantage of the economies to use the package size for Special K, we can either label it 7 ounces, in which case we are going to regularly have short weight packages which is both illegal and bad business; or we can label it 6 ounces and pack 6 ounces, which would make us guilty of slack-filling which is illegal and bad business; or we can label it 6 ounces, fill the package and underclaim the contents, which would be a misrepresentation; or we can honestly label it 6½ ounces. We think this last choice—the honest one—is the only way.

Another package size is used for seven different products ranging from 5 ounces of our newest product, Corn Flakes and Bananas, to 18 ounces of Bran Buds. I brought along one of the carton board sheets on which we have printed cartons. As you can see we have printed cartons for 8½ ounce Cocoa Krispies, 18-ounce Bran Buds and 1-pound All-Bran—all in one operation. Because the cartons are all the same size, the cartons fit together with a minimum of waste. By putting three different cereal cartons on this sheet we are able to get longer runs on our presses which is necessary to efficient operation.

We have had some experience in other countries which indicates the effect of a requirement that all packages be of specified standard weights.

We have subsidiary companies operating in both South Africa and Mexico. Both subsidiaries were organized about the same time. Each operates a cereal plant, both of which were built and put into service around 1952.

The plants are roughly comparable in size, and the packing facilities in the two plants, with two packing lines for family-size packages in each plant, have the same capacity and are essentially the same.

A South African law requires cereal to be distributed at retail only in packages of certain specified weights. Mexico does not. As a result, while in Mexico it takes only 3 different package sizes to put out 9 different product sizes for family cereal packages, it takes 6 different package sizes to put out 12 different product sizes in South Africa.

We are able to keep the number of package sizes to 6 in South Africa only by packing one product in a package which is too small and which causes undesirable crushing of the product in distribution, and by packing other products in packages which are too large for the quantity of cereal packed in them. There are many more occasions in South Africa when the line is down while changes are made to run a different package size. Each time the line is stopped, efficiency suffers and productivity decreases.

For example, in 1964, it took 89 man-hours of packing room labor at the Mexican plant to pack 1,000 cases of 24 packages each. To accomplish the same thing at the South African plant took 134 manhours of packing room labor, or 51 percent more. Requirements of mechanical labor in the South African packing room were much higher also. A substantial proportion of this is attributable to the need for a greater number of packing line changes. The South African plant required 4.89 man-hours of

mechanical labor to produce 1,000 pounds of food, while the Mexican plant required only 1.41 man-hours of mechanical labor—less than one-third of that required by the South African plant—to produce the same volume of cereal.

These higher costs to the manufacturer must of necessity be passed along to the consumer in terms of higher prices. Many examples could be given where producers testified to this effect.

Another harmful effect of these product standards will be the discouragement of competitive innovation which usually results in benefits to the consumer. Once the standard for a product has been set, the introduction of a new size to meet a change in demand will be impossible without the innovator losing the advantage of being the first one to gamble on a change. One witness gave the example of paper lunch bags. If the stand was set to allow for 25-, 50-, 75-, and 100-bag packages, not even a demand for a higher count package would draw one on to the shelves of the stores without a Federal agency hearing. The producer who first sensed the demand would lose all of his legitimate competitive advantage because he would have to go to market through the cumbersome Federal machinery.

The consumers of the United States would lose all benefits of competitive innovation. They may in a few instances be able to save a few cents by easier price comparisons but would pay out those savings and more for the higher price of the goods.

This section must be eliminated because it ignores the real interests of the consumer; it will have a discouraging effect on product improvement and innovation; and because it is based on a viewpoint which refuses to accept the idea that consumer costs will be increased as a result.

I submit an amendment for that purpose.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

AMENDMENT NO. 599

Mr. DIRKSEN. Mr. President, I offer an amendment to the fair packaging and labeling bill, S. 985, and ask that it be printed. This amendment would require that all newly made up packages of imports prepared in the United States to be plainly marked in English with country of origin of the contents.

Mr. President, one of the purposes of the amendment is to combat the unfair and misleading marking practices of importers who package imports in the United States by not designating in the English language the country of origin of the contents, thus, misleading the purchasers into the belief that the contents are products that are made in the United States of America.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and will lie on the table.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTION

Mr. HART. Mr. President, I ask unanimous consent that at the next

printing of the bill, S. 3035, to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes, the name of Senator DANIEL B. BREWSTER, of Maryland, be added as a cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY of Massachusetts. Mr. President, at its next printing, I ask unanimous consent that the names of Senators CLARK, MORSE, NEUBERGER, PELL, YOUNG of Ohio, and WILLIAMS of New Jersey, be added as cosponsors of the bill (S. 3384) to limit Federal financial assistance otherwise available for the construction or operation of nursing homes to nursing homes in States which have in effect a program which provides for the licensing of the operators of such homes and which meets certain requirements.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Kansas [Mr. PEARSON] be added as a cosponsor of the bill (S. 3473) to amend the Internal Revenue Code of 1954 so as to allow an additional income tax exemption for a dependent who is mentally retarded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY of Massachusetts. Mr. President, at its next printing, I ask unanimous consent that the name of the senior Senator from Massachusetts [Mr. SALTONSTALL] be added as a cosponsor of the bill (S. 3477) to provide for the establishment of the Plymouth Rock National Memorial.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Iowa [Mr. MILLER] be added as a cosponsor of the resolution (S. Res. 270) authorizing an investigation of premature disclosure of information relating to increased production of soybeans or other agricultural commodities.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at its next printing, the name of the senior Senator from Hawaii [Mr. PONG] be added as a cosponsor to the bill (S. 112) to authorize the Secretary of Agriculture to make real estate mortgage loans on leased lands in Hawaii.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NOTICE CONCERNING NOMINATION BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nomination has been referred to, and is now pending before, the committee on the Judiciary:

Alvin Grossman, of New York to be U.S. marshal, western district of New York, term of 4 years (reappointment).

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in the above nomination to file with the committee, in writing, on or before Wednesday, June 15, 1966, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDRESSES, EDITORIALS, ARTICLES, ETC., PRINTED IN THE APPENDIX

On request, and by unanimous consent, addresses, editorials, articles, etc., were ordered to be printed in the Appendix, as follows:

By Mr. PELL:

Address on the goals of the Great Society, delivered by Joseph A. Califano, Jr., special assistant to the President, at the annual luncheon of the Thomas More Society of America.

By Mr. DOMINICK:

An article entitled "A Day in the Senate," written by Lynne Dominick.

By Mr. BYRD of West Virginia:

Newspaper articles entitled "Toward Safe Accidents," published in the Thursday, May 19, 1966, Spirit of Jefferson (Farmer's) Advocate, Charles Town, W. Va.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar, beginning with Calendar No. 1170, S. 2366, and continuing with the following measures in sequence.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REFORMING METHOD BY WHICH UNIVERSITY OF ALASKA MAY ACQUIRE LAND FOR ITS SUPPORT

The Senate proceeded to consider the bill (S. 2366) to reform the method by which the University of Alaska may acquire land for its support, which had been reported from the Committee on Interior and Insular Affairs, with an amendment, to strike out all after the enacting clause and insert:

That sections 3, 4, 5, 6, and 7 of the Act of January 21, 1929 (45 Stat. 1091), as amended, are hereby repealed.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to repeal certain provisions of the Act of January 21, 1929 (45 Stat. 1091), as amended."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1204), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

This bill, S. 2366, would authorize exchange and make less restrictive provisions for sale of lands conveyed to the University of Alaska

where this would be of benefit to the institution. The lands in question are 100,000 acres of public land which were granted to the then Territory of Alaska for the use and benefit of a State university by the act of January 21, 1929.

NEED

The act of January 21, 1929, provides that these lands cannot be sold or leased except pursuant to the conditions set forth in the act. Some of these are cumbersome and outmoded. Examples are a prohibition against encumbrances; minute details in the procedures for the sale or lease of selected lands, and restrictions on the use of income from the State fund. Most of these provisions were enacted in 1929, when Alaska was a Territory. At that time they may have been reasonable, but with the advent of statehood, these unduly restrictive conditions are an impediment, and not necessary. The State needs to be allowed to manage and control of the assets of the university in a manner that would carry out the objectives of the 1929 act without these conditions.

The bill, as introduced, had as its purpose authorization of land exchanges by the university, and, second minor revisions of specific requirements of the 1929 law as to advertising of sales in Alaska newspapers. The Department of Interior recommended that, in lieu of the provisions of S. 2366, legislation be enacted to repeal all restrictive provisions of the 1929 act. The committee reports the bill with these amendments.

COMMITTEE RECOMMENDATION

The Senate Committee on Interior and Insular Affairs reports favorably, as amended, S. 2366, and urges its enactment.

PENNSYLVANIA AVENUE HISTORIC SITE COMMISSION

The Senate proceeded to consider the joint resolution (S.J. Res. 116) to provide for the administration and development of Pennsylvania Avenue as a national historic site, which had been reported from the Committee on Interior and Insular Affairs, with an amendment, to strike out the preamble and all after the resolving clause and insert:

That the Congress hereby finds and determines—

(a) that it is in the national interest that Pennsylvania Avenue and the area adjacent to it between the Capitol and the White House be developed, used, and maintained in a manner suitable to its ceremonial, historical, and physical relationship to the executive and legislative branches of the Government; and

(b) that the work of reviewing, programming, and coordinating proposals for the proper development, use, and control of Pennsylvania Avenue and the area adjacent to it between the Capitol and the White House should be continued, with the maximum possible use of private enterprise in carrying out the development plan.

SEC. 2. The designation on September 30, 1965, by the Secretary of the Interior of Pennsylvania Avenue between the Capitol and the White House and certain areas adjacent thereto as a national historic site under the name "The Pennsylvania Avenue National Historic Site" is hereby ratified and confirmed. The boundaries of said historic site are as follows:

beginning at a point on the southwest corner of the intersection of Fifteenth Street and Constitution Avenue Northwest, easterly along the south side of Constitution Avenue to the southwest corner of the intersection of Constitution Avenue and Pennsylvania Avenue;

then easterly along the south side of Pennsylvania Avenue to and including the outer

circumference of First Street Northwest which forms an arc around Peace Monument; then westerly along the north side of Pennsylvania Avenue to the northeast corner of the intersection of Third Street and Pennsylvania Avenue Northwest;

then northerly along the east side of Third Street to the northeast corner of the intersection of Third Street and E Street Northwest;

then westerly along the north side of E Street to the northeast corner of the intersection of E Street and Fourth Street Northwest;

then northerly along the east side of Fourth Street to the northeast corner of the intersection of Fourth Street and G Street Northwest;

then westerly along the north side of G Street Northwest to the northwest corner of the intersection of G Street and Fifth Street Northwest;

then southerly along the west side of Fifth Street to the northwest corner of the intersection of Fifth Street and E Street Northwest;

then westerly along the north side of E Street to the northeast corner of the intersection of E Street and Seventh Street Northwest;

then northerly along the east side of Seventh Street to the point on Seventh Street being the intersection of the north side of G Street with the east side of Seventh Street Northwest;

then westerly from that point along the north side of G Street to the point being the intersection of the north side of G Street with the west side of Ninth Street Northwest;

then southerly from that point along the west side of Ninth Street Northwest to the northwest corner of the intersection of Ninth Street and F Street Northwest;

then westerly along the north side of F Street to the northeast corner of the intersection of F Street and Eleventh Street Northwest;

then southerly along the east side of Eleventh Street to the northeast corner of the intersection of Eleventh Street and E Street Northwest;

then westerly along the north side of E Street to a point approximating what would be the northeast corner of E Street and Thirteen and a Half Street if the latter were extended north across Pennsylvania Avenue;

then northerly from the point along a line forming a perpendicular to F Street to the intersection of said line with the north side of F Street;

then westerly along the north side of F Street to the northeast corner of the intersection of F Street and Fifteenth Street Northwest;

then northerly along the east side of Fifteenth Street to the southeast corner of the intersection of Fifteenth Street, New York Avenue, and Pennsylvania Avenue Northwest;

then westerly along the south side of Pennsylvania Avenue to the southwest corner of Pennsylvania Avenue and East Executive Avenue;

then southerly along the west side of East Executive Avenue to a point which would be the southwest corner of the intersection of East Executive Avenue and E Street;

then easterly along the south side of E Street to the southwest corner of the intersection of E Street and Fifteenth Street Northwest;

then southerly along the west side of Fifteenth Street to the point or place of beginning.

SEC. 3. There is hereby established a Commission on Pennsylvania Avenue (hereinafter referred to as "the Commission"), which shall be composed of (a) not more than seven members appointed by the President who are not officers or employees of the executive

goes elsewhere in the nation. For New York needs each and every one of you and hundreds more besides."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

FAIR PACKAGING AND LABELING ACT

The PRESIDING OFFICER. Under the previous unanimous-consent agreement, the Senate will proceed to the consideration of S. 985 which the clerk will state by title.

The LEGISLATIVE CLERK. A bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The PRESIDING OFFICER. All time beginning now will, under the unanimous-consent agreement previously entered into, be under the equal control of the Senator from New Hampshire [Mr. COTTON], the sponsor of the amendment, and the Senator from Washington [Mr. MAGNUSON].

The Senator from New Hampshire is recognized.

Mr. COTTON. Mr. President, I yield myself 20 minutes.

Mr. President, I think that the RECORD should show exactly what the amendment upon which the Senate will be called to vote at 4 o'clock provides. As a preface, I should like first for the RECORD to show what the amendment is not.

I read in some reports that the so-called Cotton amendment is labeled as a maneuver to defeat the so-called truth in packaging bill. It certainly is not a maneuver to defeat the bill. Indeed, I think that I am justified in asserting that the purpose of the amendment and the effect of the amendment, should it be adopted, would be to insure the passage of the bill.

In the first place, it is my distinct impression, as a member of the Committee on Commerce, that that committee was practically unanimously in favor of the bill, with the exception of those provisions that would be stricken out by the amendment I have offered. If that impression be correct, it would mean that the bill as so amended would pass the Senate, probably without any determined or substantial opposition.

In the second place, while it is always impossible to predict and perhaps improper to speculate upon the attitude of the other body, it is my opinion that if this bill were passed with the provisions stricken out that would be stricken out by my amendment, its passage by the House of Representatives and its becoming law promptly would be insured.

So much for the suggestion that this is in any sense a maneuver either to delay or to defeat the bill.

It was asserted today in an editorial in the morning newspaper, which I hold

in my hand, that my amendment would strike from the bill its qualities of truth in packaging, and would promote deception. Mr. President, it might be well at this point to consider for a moment what is in the bill, and what was in it when it came to the Committee on Commerce.

I should like to say first that in the years that I have served in the Senate, and in the years that I have served on the Committee on Commerce, I have rarely if ever seen a more constructive, careful or workmanlike job done on a piece of legislation by a committee than has been accomplished by the Committee on Commerce on this measure. The bill was gone over carefully, section by section and item by item. It was discussed in a spirit of cooperation. It was improved immeasurably.

In my opinion, this is a good bill. In my opinion it is a necessary bill. The Senator from New Hampshire is exceedingly desirous of voting for the bill. It has, in my opinion, one fatal flaw; and that is the flaw to which the amendment is directed.

When one speaks of truth in packaging, as a matter of fact the title of the bill—not intentionally, I am sure—since the bill has been revised and improved and refined, has itself become misleading and deceptive. The title of the bill reads: "To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes."

Mr. President, when this bill came before the Committee on Commerce in its original form, it contained some provisions on clarity in labeling, but most of its provisions—and its important provisions—were to confer upon the Secretary of the Department of Health, Education, and Welfare and the Federal Trade Commission the power to regulate and to dictate, not only the size and number, but the shape and form of all packaging and bottling of commodities that we commonly refer to as consumer goods.

That authority has been removed from the bill by the Committee on Commerce, with the exception of the power to regulate the size and number or the weight, quantity and number of packages and of bottles.

Whatever the intent of its framers may have been, this bill was not pointed against deception; it was pointed against confusion. And in the early stages of the consideration of the bill, the thing that we heard about constantly was the confusion of the customer, in purchasing goods in the supermarkets and from the shelves of stores, by the many shapes and sizes of packages.

Mr. President, there is ample law at the present time—and let this be clearly understood—to deal with deception in either the advertising, the labeling, or the packaging of commodities. No additional law is necessary to deal with deception.

There is certain merit to this bill which is very real merit, and it lies in this fact. Under the present law either

the Federal Trade Commission or the Food and Drug Administration, depending on whether there is involved food or medicines, or nonfoods, such as soaps, detergents or paper products, may proceed against any manufacturer that in the opinion of either the Federal Trade Commission or the Food and Drug Administration is packaging or bottling his product in a manner which might deceive or tend to deceive the purchaser.

Now, there is involved some delay. There is some merit to conferring upon the Secretary of Health, Education, and Welfare and, indirectly, of course, the bureaus under him, the power to promulgate regulations to prevent certain practices because it does not then involve a long drawnout proceeding in the courts to prove a violation. There is some merit in that.

But the merit in that should be carefully guarded because when the Congress delegates its power in that manner, and there is conferred an arbitrary power on an official downtown to move in place of court procedure, it should always be done carefully, jealously, and in such a manner as to make sure that we are not making undue use of naked Federal power.

Generally speaking, the matter of deception is taken care of by present law. In the course of all consideration of this bill in the committee we sat at the table and proponents of the bill, as well as other members of the committee, brought in innumerable quantities of sample packaging and bottles of products and spread them out on the table before the committee.

This demonstrated that there are many sizes, and many containers. I noted carefully that there was not one single instance of any commodity, or any package, bottle, or container brought before the committee where the smaller package contained a larger quantity than the larger.

In other words, the idea which has been rather subtly promulgated that the housewife walks along the aisles in the supermarket and finds on the shelf a package that is big and a package that is small and the smaller package contains more quantity than the bigger package, was not once substantiated. There was shown to be only a multiplicity of packaging.

There was shown something else which was very impressive: The labeling as to quantity on packages in the markets was not clear.

I hold here—I will not mention the manufacturer of this commodity because it may constitute a plug, or perhaps a charge—two packages of the same commodity. It is floor wax. The smaller package contains 27 ounces. The larger one contains 46 ounces. But when I try to find out exactly the quantities, I look at the smaller one and I find on the front of it, at the bottom, "1 pint, 11 ounces." Then, I look at the larger one and there is nothing that indicates the contents on the principal panel, but I turn it around and look at the back and I find at the bottom of the back of the receptacle "1 quart and 14 fluid ounces."

I believe that the proponents of the proposed bill are justified and I am in accord with them that the housewife is at a disadvantage when she walks down the aisle of a supermarket perhaps with a squalling child in one hand, leading another, and pushing a cart with the other hand, while her husband is outside the door in an automobile blowing the horn for her to hurry up. She is confronted with quite a proposition when she has to hunt from one side to the other of these packages, and then when she has to compute a pint and 11 ounces as against a quart and 14 fluid ounces.

So I offered an amendment to the proposed bill to strengthen it in the spot where it is most important, in my opinion: That the proposed bill provide that upon the principal panel of every package and every bottle in the stores there shall appear in the same spot—and that would be parallel to the bottom in large and conspicuous letters; and the Secretary is given the power to prescribe the size and the color of the lettering—the exact amount and quantity in every package. It further provides that this information shall be phrased, except where it is an even pound or an even quart in commodities such as butter or milk sold in those quantities only, so that it appears in ounces.

I doubt if there is a housewife or anybody else, regardless of how many packages there are on the shelf, that, if given the opportunity at a glance to see how many ounces there are in this package, and how many ounces there are in that package, who cannot satisfactorily compare between 27 and 46 ounces, or between 14 and 18 ounces, or between 10 and 11 ounces. Therefore, it would be in ounces, in the same measurement, in the same spot, and there could be no other information in that particular line. There could be no qualifying words. There could be no such language as 14 "good" ounces, or 14 "red" ounces, or 14 "effective" ounces. It would have to be exactly the measurement that is in the bill. That provision was strengthened, by the proposals I offered in the committee.

Let us see what else the bill provides. In most cases, the provisions were strengthened. The Secretary, under the bill, is given power and authority to establish and define standards for designating the relative size of packages, such as "small," "medium," and "large." He is given power over the use of words to designate the number of servings. Frequently we read on packages that there are so many "servings." Perhaps a serving for me might have to be larger than a serving for my distinguished friends across the aisle, or vice versa. Usually Republicans get small servings and Democrats large servings. But "serving" is not necessarily an accurate, definitive term.

The PRESIDING OFFICER. The time yielded to himself by the Senator from New Hampshire has expired.

Mr. COTTON. I yield myself an additional 10 minutes.

So, Mr. President, the bill vests in the Secretary of Health, Education, and Welfare complete power. He may forbid, he may eliminate, the use, even, of "small,"

"medium," and "large"; or he may permit them if he believes their use is clear and is not misleading or confusing. He may establish rules as to whether a package shall or shall not use the word "serving."

Furthermore, he is given complete power to regulate printed label representations to the effect that commodities are being offered, in retail sales, at cents off the regular price—in other words, "cents off" promotions. When one sees an attractive package which states "Trial package; 10 cents off," the question arises, 10 cents off what? Under the law at present, of course, the producer or wholesaler cannot dictate or establish the price that a retailer shall charge.

So that the Secretary, if he thinks that "cents off" labels are deceptive, or make it more difficult for the housewife to compare prices, he can forbid them, he can regulate them. He will have that power under the bill which has been reported. He also would have the power to require disclosure on labels of relevant ingredient information—that is, he may prescribe rules so that ingredients labeling necessary to facilitate price comparisons may be required, within certain limits.

Now all of those provisions are in this bill and some of them were greatly strengthened by the committee. I support them and I think the vast majority, if not all, of the committee also support.

Now we come to the further question. The bill in its original form would have empowered the Secretary of Commerce to dictate to the manufacturer the size and shape of his packages or bottles, and even the pictures that would appear on the labels.

The committee did not accept that. The committee did not accept it because it appeared to be the opinion of the majority that it was unnecessary, that in the course of selling merchandise, the manufacturer of the merchandise has the right—so long as he does not indulge in deception, and if he does he is already violating the law—to design the shape and appearances of the packages which enclose his product. The majority of the committee agreed on that.

Thus, that provision was modified. In place of it, the bill contains a section which would give the Secretary of Health, Education, and Welfare full power to say to any manufacturer just what quantities or weights he can put out, and just how many sizes.

The Secretary of Commerce can say to the manufacturer—for example, of this floor wax which I hold in my hand—that it shall be put out in pint and quart sizes, and that is all they can put out, they cannot even put out a half-gallon size if they wish to do so; they cannot even put out a 4-ounce size.

No matter how clearly on his label the manufacturer has indicated the size, the Secretary would have the power to say that Company A, Company B, and Company C making the same product must put out their product in exactly the same sizes and in the same quantities. That means standardization, because, by and large, if the manufacturer is restricted on the matter of size, he would lose one element in his ability to make a distinctive packaging of his product.

Let us see what that would do to the consumer. This bill is supposed to be, should be, and is, with the exception of this provision, a consumers bill. What would it do to the consumer?

The argument advanced all the time is that the Secretary will be reasonable, that he will not exercise this power except in rare instances and then only on extreme occasions; that he will be most obliging and accommodating and cooperative. No doubt he would be.

However, if my 20 years of service in Congress has taught me one thing, it has taught me more than anything else not to place arbitrary power in the hands of an individual official of this Government on the assumption that he and his successors will use that power wisely, discreetly, carefully, and considerately.

What would happen, suppose the Secretary said to several large manufacturers, "You must put your commodity out in pints and quarts, or half pounds and pounds only."

Well, we had testimony before the committee that the new machinery and equipment necessary to make the change, as if the manufacturer who puts out 27-ounce and 46-ounce bottles of floor wax were told that he had to put out a pint and a quart size, would cost, in many instances, more than \$1 million—possibly as much as \$2.5 million, according to the evidence—in new equipment.

Who would pay for that new equipment?

There is not a Member of the Senate who is so naive as to believe that the manufacturers will pay for it and take the loss.

Of course, the consumer will have to pay for it. Every additional dollar that the manufacturer has to pay to change his equipment, to change his machinery, to change his style of packaging, will be reflected in higher prices to the consumer. That is no favor to the housewife.

Next, what would it do to the new, small operator who is entering the business?

We hear a great deal about how we should take care of the small fellow. We hear a great deal about the dangers of having all the business in any particular commodity or line vested in two or three big companies. The small fellow that wants to get his product on the market, if he is compelled to put that product out in exactly the same size and the same amount—and he could not vary his size greatly.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, the Senator from New Hampshire is recognized for 5 additional minutes.

Mr. COTTON. A half a pound is half a pound, and if it is put out in a package that looks like a pound, and it has a lot of empty space in it, then the manufacturer is already in violation of the law, which provides against deception. A large package with a small amount in it

is deception, and could properly be found to be deception and moved against.

It is the new manufacturer who is trying to break into the field who is going to be put under a handicap. The provision is not going to hurt the big corporations. It will hurt the new fellow who is trying to break in.

So, in the first place, this provision can be costly to the consumer. I do not say it will be. It depends on the good grace of the Secretary. It can militate to the advantage of those large establishments that are already well entrenched in business and that have gotten their trade names known, because the provision will prevent someone else from coming along and using imagination, initiative, and ingenuity in presenting a product in a new and different size, attractively packaged, to try to get his share of the consumers in the market.

So, to the consumers and small business, this provision is bad. And it adds very little to the bill, because—and as I close this statement I want to return to where I started—what was needed, and what is needed, in the form of legislation by the Congress, is not truth in packaging. What is needed is clarity in labeling.

I am inclined to doubt that the consumers are as confused as has been asserted. Of course, that word was dropped as the committee went into the consideration of the bill, and it developed a new phrase—the consumer's impaired ability to make price per unit comparisons.

That is ridiculous, because it is the retailer who establishes the prices, who bunches so many packages for so much. So the bill can hardly accomplish that purpose. But the purpose was to avoid confusion, so it was said. Confusion was what was talked about.

At the present time, according to statistics, a comprehensive study of the buying habits in supermarkets showed that the average shopper sweeps past the 8,000 products found in the store and buys 32 items in 15 to 18 minutes.

That hardly indicates that the housewife is an imposed upon, naive, unskilled creature.

Furthermore, the housewife has a weapon. Once she makes a purchase and finds that that package is not satisfactory, that it does not contain what she thought it should contain, and was not the size she thought it should be, she never buys it again. Any manufacturer in business and in competition knows that fact, and is influenced by it.

The pending bill, with this provision, will stifle competition. Anything that stifles competition, no matter how it is spelled, no matter whether one says pound or anything else, no matter how one prints it, is harmful to the consumer.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COTTON. I yield myself 2 additional minutes.

It is competition that keeps the price down. It is competition in the winning of the confidence of the consumer that people do business on.

So there is presented a bill that is 90 percent good. It has provisions against practices, like the use of words such as "family size," "economy size," "giant size," "long pound," and other such labels. It has provisions to make sure the commodity on the shelf is clearly labeled, prominently, where it can be seen very easily and quickly, and its contents ascertained. Then to add to such a bill a provision vesting arbitrary power in the Secretary to standardize the packaging is not only unnecessary, but in the opinion of the Senator from New Hampshire, is exceedingly harmful.

Without that provision, it is a good bill. With it, it has that fatal flaw.

Mr. President, I reserve the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield 5 minutes to the Senator from Nevada [Mr. CANNON].

Mr. CANNON. Mr. President, the minority of the Commerce Committee has objected strongly to sections 5 (d), (e), (f), and (g) of the fair packaging and labeling bill. In the committee report, it argues that the discretionary powers of the Federal Government to regulate the weights and quantities of consumer commodities can be arbitrarily invoked against "the law-abiding, conscientious producer."

That argument is made not only in the minority views contained in the report; it has been made also by the Senator from New Hampshire here on the Senate floor.

The minority attempts to prove its premise by showing how a company that produces potato chips in a 12-ounce package could be forced out of business if the bill were administered in its present form.

I would like to discuss the minority views paragraph by paragraph so that my colleagues may see how the destructive consequences predicted by Senator COTTON and the minority could not possibly materialize under the reasonable legislation reported by the Commerce Committee.

The minority argument begins as follows, and I read from page 40 of the report:

One example will illustrate the baleful potential. We have carefully chosen as reasonable and realistic an example as we could. Company A produces potato chips. It has a good product. It is reasonably priced. It is honestly and fairly marketed. Its big seller is a 12-ounce package, a size chosen after unhappy experiences with other sizes, and on the basis of extensive research in its marketing area. The package has found a good market. It has loyal customers. Many prefer it because they like the 12-ounce size. It provides enough so the housewife is not always running out, but not so much they get stale.

Obviously, no disagreement could be registered with a company for producing a package size that suits the consumer's convenience, particularly when the label clearly designates 12 ounces.

But let me return to the minority argument:

Now comes a Federal agency, in this case the Food and Drug Administration, intent on rescuing the American housewife from a sea

of confusion. It "determines," under section 5(d), that potato chips are being marketed by all producers in so many different sizes that they "are likely to impair the ability of consumers to make price per unit comparisons."

This reasoning is fallacious because subsection 5(d) does not allow a Federal agency to arbitrarily determine that many sizes of potato-chip packages "are likely to impair the ability of consumers to make price-per-unit comparisons." Before the promulgating authority—the Department of Health, Education, and Welfare—the Food and Drug Administration—or the Federal Trade Commission—can articulate any judgment at all; it is required by subsections 5 (c) and (d) to ascertain after hearings that deception or the confusion of the consumer actually exists. Only after such a determination can the Department of Health, Education, and Welfare or the Federal Trade Commission even publish this determination in the Federal Register. And, then, producers and distributors may participate with consumers in the development of voluntary product standards.

Moreover, it is not likely that a 12-ounce package could be considered confusing. Subsection 5(g) requires that due regard be given by the promulgating authority to: First, the probable effect of the availability of any product in a reasonable range of package sizes to serve the consumer's convenience; and second, the weights and measures customarily used in the packaging of the affected product. If potato chips, at the time of such a ruling, were still marketed in 71 different quantities under 3½ pounds—as they have been recently—the 12-ounce package could be singled out as a model of reasonableness for the entire potato-chip industry. The companies marketing potato chips in 2¼ or 4½ ounces would be the target of Federal regulation, because such sizes are unreasonable—unreasonable because they involve many complicated calculations before the consumer can make price comparisons.

The minority views continue:

Thus, it invokes the procedures of section 5 (e), (f), and (g). The "voluntary" nature of some of these procedures—the product standard procedures of the Department of Commerce—is illusory for they can be readily converted into mandatory Federal regulations.

Again, it should be noted that the 12-ounce potato-chip package could hardly be considered, by reasonable standards, to impair the consumer's ability to make price comparisons. However, for purposes of illustration, let us assume that the promulgating authority did invoke subsections 5 (e), (f), and (g) after determining the likelihood of the consumer's inability to make a rational price comparison of potato-chip packages.

In contrast to the minority misrepresentations, the product standards procedure cannot be readily converted into mandatory Federal regulations because of the safeguards contained in the procedure defined by the Secretary of Commerce. In this procedure, the com-

modity industry affected by the promulgation of any regulation may request the Secretary of Commerce to establish a Standard Review Committee consisting of "adequate manufacturer, distributor, and consumer representation." The committee is then given from 12 to 18 months to approve a product standard by a three-fourths vote.

The distinguished Senator from New Hampshire stated last Thursday that a one-third consumer representation could readily be chosen by the Secretary of Commerce from consumers predisposed toward mandatory Federal standards. He declared that such a representation could defeat the voluntary standard and thus encourage the Federal Government to impose an arbitrary, mandatory standard.

May I suggest to the distinguished Senator that the same voting power is invested in manufacturers and distributors—and that the composition of the Standard Review Committee thus contains built-in checks and balances?

Just as the manufacturers on the committee will have the incentive to originate voluntary standards in order to avoid the imposition of mandatory standards, so will the consumers have the incentive to agree to the voluntary standards in order to avoid waiting for lengthy delays in the promulgation of mandatory standards. Moreover, the retailers—who are virtually unopposed to this bill—will also have the incentive to agree to voluntary standards in order to avoid any further inconvenience in shelving the multitude of odd sizes and shapes of packages about which they now complain.

Does the Senator from New Hampshire honestly believe that the reasonable men and women on the committee—men and women of good will acting in good faith—cannot come together to discuss problems of mutual concern without respecting mutual needs?

It appears to me that the Senator's statement repudiates the best of American tradition in representative government. Since the inception of our Nation, Americans have been working together to explore the preserve differing viewpoints, with the purpose of achieving an equitable solution to mutual problems. Certainly, the Standard Review Committee in this legislation is an extension of that noble and time-tested principle.

Let me remind the Senator that the vote of the committee, important as it is, nevertheless is not the terminal step in the voluntary standards procedure. Once a standard is voted from the committee, it is distributed to producers, retailers, consumers, testing laboratories, and relevant State and Federal agencies. To become effective, this standard must be supported by a consensus—defined as general concurrence, with no substantive objection deemed valid by the Department of Commerce. And, even then, the standard is subject to revision and withdrawal.

The only occasions justifying the imposition of mandatory standards by the Federal Government are the following:

First, should there be a failure by the Standard Review Committee after 18 months to determine any voluntary product standard; second, should industry fail to arrive at a consensus; and third, should industry fail to comply with the standard.

Even if the third occasion transpired neither the Department of Health, Education, and Welfare nor the Federal Trade Commission could immediately promulgate mandatory standards. The only immediate action that the Government could take is to initiate a proceeding for the establishment of mandatory standards. Furthermore, such a mandatory standard could not vary in substance from the voluntary standard. As the distinguished Senator from Michigan pointed out last Thursday, layer upon layer of procedural safeguards are built into the process of establishing voluntary standards. Clearly, the purpose of such scrupulous care is to prevent the arbitrary imposition of standards by the Federal Government.

I read again from the minority views:

The clearly possible result of the agency's efforts could be a regulation requiring potato chips to be packaged in 4-, 8-, 16-, and 24-ounce sizes—and in no other sizes. The 12-ounce package would then be banned.

This portion of the minority argument fails to recognize that the promulgating agency is required by subsection 5(g) to give due regard to the probable effect of the cost of packaging, the availability of a reasonable range of product sizes, the material used in packaging the affected product, the weights and measures customarily used in the packaging of the affected product, and the competition resulting from containers made of different types of packaging material.

If the promulgating authority could not show that it had judiciously considered every one of these factors and had based its judgment on abuses that actually exist, any regulation that it might issue could be challenged in the courts and invalidated.

The consumer is especially protected by the requirement that the promulgating authority take into consideration the availability of any product in a reasonable range of package sizes to serve consumer convenience.

If a consumer demand for the 12-ounce package is established—and, according to the minority, that demand has already been established because that was the reason for the particular manufacturer in the example cited going to that size—the 12-ounce package would undoubtedly be considered reasonable, and any ruling to the contrary could be subject to the charge of being arbitrary.

Still another related safeguard occurs in subsection 5(f), which permits the use of any package of particular dimensions or capacity customarily used for the distribution of related commodities of varying densities, such as baby food. This same subsection also permits the continued use of returnable or reusable bottles in use when this legislation becomes effective.

I continue to read from the minority views:

In this "voluntary" way, company A would have to discontinue its successful 12-ounce package and switch to an 8- or 16-ounce package. It would have to convert its packaging line and machinery to the new sizes—at an appreciable cost (one witness testified that a new packaging line could cost up to \$400,000).

And, according to the statement of the distinguished Senator a few moments ago, this cost could run as high as \$2.5 million.

I continue to read from the minority views:

And the cost inevitably would be reflected, in some measures in the price of the product.

Aside from the remote possibility that the hypothetical potato-chip company would have to discontinue its 12-ounce package, this argument is weak because the regulating agency is required by subsection 5(g) to consider the cost of packaging the products affected.

Surely, it is only fair to assume that this legislation will be interpreted and administered by reasonable men who will understand the problems of both the manufacturer and the consumer. It therefore seems extremely unreasonable for the minority to throw up a smoke-screen by suggesting that the interpretation and administration of this bill will imperil the existence of manufacturers.

Moreover, the minority's prediction of prohibitive manufacturing costs is an intangible guess, not documented evidence. As demonstrated in committee testimony by a survey made by the Consumers' Cooperative of Berkeley, Calif., within 1 month changes were made in the packaging of eight different brands of cereal by several manufacturers. Manufacturers simply do not make changes of this kind if they entail prohibitive costs: they make them to enhance the competitive value of their products in the marketplace. And they often make these changes economically because their packaging equipment is adjustable.

However, even if equipment conversion should involve expense, I want to emphasize that this bill allows manufacturers to work out accommodations to use up their existing stocks of packages before they change to meet new standards.

I refer again to the minority views, which read as follows:

Furthermore, the firm would now have to compete against the 8- and 16-ounce packages of other producers who have been building markets and customer loyalty at these weights for years. Thus, it must seek sales on terms chosen by its competitors, but with the added handicap of higher costs and higher prices imposed by Federal regulation. It is not hard to foresee that company A could be severely, if not fatally, damaged, through no fault of its owners, managers, or employees. This is the potential harm which the language of the bill can inflict on producers in many fields.

It seems to me that this argument sells short our competitive system, because healthy and honest competition does motivate manufacturers to improve their products. To capture the consumer's attention, the manufacturer uses labeling and package design to express the difference of his product from those of his competitors. If one manu-

manufacturer uses a distinctive package or label, his competitors tend to imitate his innovation.

However, many manufacturers are attempting to avoid price competition through an excessive degree of product differentiation: by placing commodities in odd-size packages, these manufacturers make it so difficult for the consumer to compare prices, that the consumer is forced to choose the commodity on the basis of brand names or other factors, not value. It is these manufacturers, as shown by the committee testimony of the Commissioner of Food and Drugs and the Chairman of the Federal Trade Commission, who can force honest competitors to adopt unethical packaging practices to remain in business.

This bill will close the loopholes that permit this kind of negative competition. In doing so, this bill will thus promote positive competition by simultaneously applying regulations—with a minimum of Government control—on an industry-wide basis, so that no particular industry will be at a competitive disadvantage.

The packaging of liquor in pints, fifths, and quarts neither stifles imaginative packaging, nor forces manufacturers out of business. At least, it has not done so up to this time. It therefore seems hardly reasonable to assume, as does the minority, that potato-chip manufacturers will be "severely, if not fatally, damaged" by this section of the bill.

I refer again to the minority views, which read as follows:

The consumer who preferred the 12-ounce package of potato chips—because it contained the right amount, or because the package fit conveniently on her kitchen shelf, or for whatever rational or irrational reason—is out in the cold. She must forgo her desires. She must accept the size her Government thinks is best.

Once more, there is little doubt that the homemaker would be delighted to see a plain and unqualified size designation of 12 ounces—as opposed to 2¼ ounces or 4½ ounces. If consumer demand is established, 12 ounces would not be unreasonable, deceptive, or confusing. Nor would it be the size deemed arbitrarily best by the Federal Government.

The purpose of this legislation is not to decide for the homemaker what she can buy. It is to enlarge her opportunity to make a meaningful free choice—and informed choice. Twenty years ago, the homemaker had only 1,500 promotionally designed packages competing for her dollar; now she is confronted with over 8,000, including potato-chip packages of deceptive and confusing fractional ounces. With this legislation, the homemaker will be provided with the opportunity to make quick, accurate price comparisons on the basis of clear, precise quantitative designations. Not until quantitative common denominators are available to the homemaker can she have the freedom to make qualitative comparisons.

I refer again to the minority views, which read as follows:

These provisions of the bill are a fuzzy, foolish, and futile attempt to help the housewife, who does not need the Government to

decide for her what size packages she can buy.

It is an approach that regards our people, particularly the housewife-consumer, as childlike and helpless; so confused that she requires the benevolent but firm guidance of a wise government in Washington. This approach is demeaning, and in relation to business, morbid. We reject it wholly.

The naivete of the minority position can be illustrated by a recent study conducted by Monroe Friedman, professor of psychology at Eastern Michigan University. In this study, 33 young, university-educated Michigan homemakers were instructed to select the lowest priced package of 20 supermarket products—ranging from canned peaches to toothpaste.

To select each product, the shopper was allowed from 1 to 4 minutes, depending upon the number of packages in that product category. She took, on the average, 2.35 minutes—3 times as much as the average shopper spends in reaching her decisions. Three times as much, Mr. President.

According to Professor Friedman, these young women, because of their "considerable education" and their "strong interest in economy," performed more effectively than the average supermarket shopper.

Yet these young homemakers made mistakes in 43 percent of their 660 decisions. And they spent 9 percent more than if they had been able to select the lowest priced package.

I wish to point out to the minority that these mistakes did not occur because the 33 young homemakers—volunteers from the American Association of University Women—were "childlike, helpless, and confused," as defined the minority report. These mistakes occurred because the volunteers encountered fractional and awkward weight quantities that virtually defied rational price comparisons.

None of the 33 chose the lowest priced detergent. Only one chose the lowest priced bleach. Only three selected the lowest priced paper towels. And only six chose the lowest priced cola. On the other hand, none of the 33 made errors in selecting granulated sugar or solid vegetable shortening. Why? Because sugar is sold in 1-, 5-, and 10-pound packages. And shortening comes in standard 1- and 3-pound cans.

As the distinguished Senator from Michigan stated last Thursday, packaging that deceptively disguises diminished contents is actually inflationary. If these young homemakers were to consistently spend for one year these 20 items alone the 9 percent extra that they spent in this survey, their mistakes would cost them about \$11 per year.

What does this mean in terms of the American economy? The average American family spent \$1,500 per year in supermarkets, 60 percent of which is spent for packaged products similar to the 20 items covered in Friedman's survey. On the basis of these 33 young, well-educated, homemakers, the average American family, then, wastes about \$81 per year, and the Nation as a whole wastes \$4½ billion per year because of packaging confusion and deception. Therefore, if the American homemaker can be given the opportunity to deter-

mine product value more effectively so that she can save that 9 percent, we will have provided our economy with a powerful anti-inflationary weapon.

Mr. President, the reasonable manufacturer has nothing to fear from the fair packaging and labeling bill. He realizes that his best advertisement is a package clearly and accurately labeled. But the American housewife has reason to fear the Cotton amendment, which would vitiate the intent of this legislation.

If the minority is not interested in protecting the American homemaker from deception and confusion, let it vote for the Cotton amendment. If the minority is not interested in averting inflationary trends, let it vote for the Cotton amendment.

But if the minority wishes to assist the American homemaker and the American economy, let it join with the majority who believe, with the President, that the consumer's interest is the American interest.

I thank the distinguished Senator from Washington for yielding to me.

Mr. COTTON. Mr. President, I yield as much time as he may require to the distinguished Senator from Kentucky.

Mr. MORTON. Mr. President, I have followed with great interest the remarks of my distinguished colleague on the committee, the Senator from Nevada. I signed the minority report, and I stand behind it. I wish to make one point abundantly clear: We want clarification in labeling. There is no objection to that whatsoever. It is a question of how we are to achieve that beneficial result.

Mr. President, the full philosophy of this bill, the whole basis of it, is that the American housewife is dumb, that she does not know what she is doing, that she goes into a grocery store and she is confused.

I was in the grocery products business for a good many years, and I think the housewife is about the smartest buyer in the United States, or in the world, for that matter. I do not think you fool her. I think you can sell her one time a package of soap flakes or something else that is half full; but you will not fool her twice.

With the costs of advertising, the costs of merchandising, the costs of introducing new products, nobody wishes to make just that first sale in the grocery store. Perhaps with an automobile or something else the situation is different; but in a grocery store, you have got to get repeat business. You have to sell the item 10 or 12 times to the same customer before you get your original nickel back after the costs of research, promotion, and development of the particular product. And you are not going to do it by fooling the American housewife, because she is not that easily fooled.

We have heard a great deal about potato chips, and about the fact that a 4¼ ounce package is confusing, or a 5.6 ounce package is confusing.

Some people like thin potato chips, others like them a bit thicker. Most people want a package they can conveniently put on a pantry shelf or in a cupboard of some kind; and they are inter-

ested in the quality and texture of the potato chip, and some just want a 29-cent package—not whether the package contains 4.5 ounces or 6.4 ounces. They know what they want, and they buy accordingly.

We had a whole chamber of horrors during the committee hearings on this bill. We brought in all kinds of packages, and had them there on the table in the committee. One example that I remember was floor wax. We had one container that said 1 pint, 10 ounces; another container said 1 quart, 12 ounces. Actually, the 1-quart, 12-ounce package cost more per ounce than the smaller package.

This was not the manufacturer's business. I went to the trouble of finding out, and I saw a copy of the invoices, which proved that the larger size was cheaper per ounce when it left the control of the manufacturer. But by the time it got through the wholesale and retail distribution system, by the time it reached the consumer, it had been marked up in such a way that the larger package was more expensive per ounce.

Here we are dealing with a bill that has nothing to do with that situation. It puts it back on the manufacturer, who has no control over the retail selling price.

I asked this manufacturer, "Why in the world are you trying to confuse the people? Why do you designate your sizes as 1 pint-10 ounces, or 1 quart-12 ounces? Why do you not just put the number of ounces on there, so that anybody can understand it?" I will admit that any housewife could be confused in having to translate from pints and quarts back to ounces.

I was told, "We do not want to do this. We do it because the Federal Government requires us to do it."

"Who?"

"The Food and Drug Administration." The people who would be granted the authority, under this bill, to further confuse the American public.

If this is the way you want to do it, all right. Give them more power. They have the situation so confused now because of their crazy regulations, just give them that much more power. That is what this bill would do.

The amendment that has been suggested by the minority leader on the committee, the distinguished Senator from New Hampshire, solves much of this difficulty. I think it is a good amendment. I think it will help to give us a bill that clarifies, not just to the American housewife, but to these bureaucrats downtown—who are today issuing these confusing regulations—just what we want done. And once we clarify that, I think there will be no problem at the marketplace.

Many centuries ago, a fellow in Rome—I think his name was Juvenal—wrote a line, "De gustibus non est disputandum." And this saying applies, really, at the marketplace today. Most people buy things because they want them, not because they are contained in a certain kind of package with a certain conformity to it.

The point has been raised that today in a supermarket you have literally tens of

thousands of items, where 20 or 30 years ago we had 1,500, and 40 years ago we probably had 40 items.

Why is this? It is because the American housewife wants it and is demanding it. The drudgery that used to take place in the kitchen 50 years ago has been transplanted today and has moved into the processing plants of America.

I can remember as a child that we had flour in 196-pound wooden barrels. We lived in the country. Today if flour were sold like that it would take a piano mover to move the flour.

I looked in my kitchen the other night and I found a package about the size of a saltshaker with flour in it. This was unheard of 50 years ago.

Are we going to have uniformity in this industry or are we going to have some bureaucrat, who is confusing the housewife today by regulations, given the authority to say that a product must be in a package of 7 ounces or in a package of 14 ounces, and take away from the housewife this choice?

I think that is absurd. I think that great progress has been made in the food field, and in the distribution of food products and grocery products, and it is because of the demands by the intelligent American housewife to have the services rendered by her that she, her mother, or her grandmother had to perform in a hot, unairconditioned kitchen.

I remember, for example, that we used to sell a product in our company in New Orleans for 10 cents. It was a small package of self-rising flour. It was sold for 10 cents. We had to sell it at about 90 cents a dozen to the trade to make it a 10-cent seller. The prices of wheat changed, and the cost for packaging materials changed, as well as other costs, so the weight varied. But we made it a 10-cent seller. That is what the housewife wanted. She wanted a 10-cent item and we kept it as a 10-cent seller.

In other words, it might be sold sometimes as a pound and sometimes as a pound and a half, but it was a dime, whether we had a good wheat crop in Illinois or not. Now, it is going to be made 9 cents 1 year, and 11 cents the next year. The housewife wanted a 10-cent seller. We did not like changing our produce line in accordance with the fluctuations in the price of wheat. But we knew the housewife of New Orleans wanted a 10-cent seller and we gave them a 10-cent item.

I think that if we are going to let some bureaucrat who probably has never been in a kitchen, much less a grocery store, decide what every package is going to be and how it is going to conform, we will be putting a terrible weight on the free enterprise and initiative that has built this business.

Some people talk about the food industry as an industry of four or five people. The grocery products industry, those who sell to the grocery store, is the most diversified industry in the Nation today by far. In one segment only is there concentration: breakfast cereals and breakfast foods. Eighty percent of the business is in the hands of five companies. But beyond that one narrow field it is highly diversified and much more so than automobiles or steel or any

other of our great industries. If they are to be put under the control and regulation—arbitrary regulation—of those who today are making the rules, rules that confuse, I cannot see that we are accomplishing anything.

As a matter of fact, in this particular area we have in this Nation the best bargain in the world: the grocery store. We talk about India, and we talk about countries with a per capita income of \$80, \$100, \$120. However, they pay more for their food per unit than we do, and we are the richest Nation on earth. Why is that so? Because we have this intensely competitive system, and with this absolute freedom of choice by the one who makes the price, the housewife, who goes into the grocery store. She may get fooled once or twice, but she does not get fooled very often. The fact that she gets fooled means that she does not come back and buy there again. Any manufacturer or any processor of food products or grocery products knows that he must have repeat business, followup business, in order to not only meet his payroll but to pay such dividends as necessary to stay in business.

I hate to see us give to theoretical economists the complete yea and nay over this great industry.

Much has been said about the fact that the industry itself would have to come along and say, "Oh, yes, we approve of this standard." As the Senator from New Hampshire [Mr. Corron] stated so well, a new fellow coming into the business could be frozen out because of those on the committee who would require certain standards and certain packages. This could stop the incentive to build a better mousetrap. That is really what we have grown on: the idea that I have a better product than you have, I can go out and tell the world about it, the people buy it and like it, and therefore I am giving people work. This is what has made our food industry so great in this country.

Finally, the pending bill does not touch the retailer or wholesaler. No matter what they are, the prices of these articles are set by the retailer, influenced by the wholesaler and, of course, by the manufacturer. But he loses control of it long before it ever gets to the housewife.

If we want to go to the heart of this problem and see that Mrs. America always gets the best for her nickel, let us apply something to the retail level and the wholesale level. There is a danger in this bill that it is a step toward national Federal grading, quantitative as well as qualitative.

We have an interesting example in the case of applesauce. The Federal Government for some reason decided to grade applesauce. They have No. 1, No. 2, and No. 3 applesauce. The armed services have to buy No. 1 applesauce. The soldiers and sailors do not like it but they must eat No. 1 applesauce. They prefer No. 3 applesauce. That does not affect the downtown boys, the bureaucrats, who want to be sure that they eat No. 1 applesauce.

We are getting into the same thing here. I can remember during World War II I was out in the Pacific. The ship I then commanded went in to pick

up some supplies and we picked up a roll of lamb from Australia. The lads on the ship did not like lamb. I happen to like it. They preferred pork or beef. I had to put a quartermaster on duty to keep them from throwing the lamb overboard. It was the only thing we could give them or they would not have had anything to eat.

We are not going to change the tastes of the people. When you straitjacket an industry that has done more than any other industry to lower the prices of food to the consumer, with some bureaucratic mish-mash, such as is in this bill today, I do not think that we are rendering a service to the American housewife. I know they want to serve her interests. I wish them well but I happen to disagree with them.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. The Senator from Ohio [Mr. LAUSCHE] wishes to present an amendment. I yield such time as he needs.

Mr. LAUSCHE. Mr. President, I send to the desk an amendment and ask that it be read.

The PRESIDING OFFICER (Mr. INOUYE in the chair). Is the amendment an amendment to the Cotton amendment?

Mr. LAUSCHE. It is not.

The PRESIDING OFFICER. The amendment of the Senator from Ohio is not then in order at this time.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senator from Ohio—

Mr. COTTON. Mr. President, reserving the right to object, how much time will be consumed in the consideration of the amendment of the Senator from Ohio?

Mr. MAGNUSON. It will be on my time.

Mr. COTTON. Very well.

Mr. MAGNUSON. Mr. President, I now yield to the Senator from Ohio from the time under my control as much time as he may need. He may discuss his amendment; and after the amendment of the Senator from New Hampshire [Mr. COTTON] has been disposed of, one way or the other, the Senator from Ohio may present his amendment.

Mr. LAUSCHE. Mr. President, section 5(c)(4) provides that regulations promulgated thereunder must be consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended.

It is important that that language be clarified so that it will be clear that section 5(c)(4) will in no way change or supersede the rules and procedures for the listing of the ingredients and the composition of a food for which there is a definition or a standard of identity prescribed by the Federal Food, Drug, and Cosmetic Act.

Should subsection 5(c)(4) of which I have been speaking be interpreted otherwise, the intent of the protection insured to consumers by section 401 of the Food, Drug, and Cosmetic Act would be defeated.

My amendment merely contemplates making it clear that the provisions of the

Food, Drug, and Cosmetic Act dealing with the subject shall not in any manner be changed by this act.

The amendment does nothing more than clarify what is the purpose of the pending bill.

Inasmuch as the declared purpose of the Fair Packaging and Labeling Act is to protect consumers from unfair or deceptive methods of packaging or labeling of consumer commodities, it is vitally important that interests of consumers be not hindered, but benefited by the provisions of S. 985. The Fair Packaging and Labeling Act will supplement a host of existing congressional enactments which safeguard the health and welfare of American consumers, and, consequently, great care must be taken to insure that the provisions of S. 985 are not detrimental to existing Federal regulations which benefit consumers.

In this respect, questions have been raised regarding subsection 5(c)(4) which authorizes the Secretary of Health, Education, and Welfare to require that information with respect to the ingredients and composition of any consumer commodity be placed on the package containing that commodity. According to the committee report on S. 985 (S. Rept. 1186), the committee, in suggesting this subsection, "is primarily concerned with the ability of consumers to make price comparisons among competing products with varying proportions of active or costly ingredients." The report further states that—

Regulations promulgated under this section must be consistent with the requirements of the Federal Food, Drug, and Cosmetic Act and may not require the disclosure of information concerning proprietary trade secrets.

It must be made clear that the problem sought to be corrected by subsection 5(c)(4) has, for some foods, been corrected by Congress under section 401 of the Federal Food, Drug, and Cosmetic Act and other acts of Congress. Under section 401 regulations may be promulgated by the Secretary of Health, Education, and Welfare to establish for any food a definition or standard of identity with the objective of promoting honesty and fair dealing in the interest of consumers. Similar definitions have been prescribed by statute. In prescribing such a definition or standard of identity, optional ingredients may be permitted by the Secretary, which, if used, must be named on the label.

It was the intent of Congress in enacting section 401 of the act as well as other statutes which establish definitions for certain foods, to protect consumers from the evil of economic adulteration by which less expensive ingredients were substituted, or the proportion of more expensive ingredients diminished, so as to make the product, although not in itself deleterious, inferior to that which the consumer expected to receive.

It is this same objective which lies behind subsection 5(c)(4) of the Fair Packaging Act. However, the remedy chosen by the Congress in the case of the Food, Drug, and Cosmetic Act and other acts of Congress was not the requirement of

informative labeling, but rather the authority to promulgate definitions and standards of identity under which the integrity of food products could be effectively maintained and to require informative labeling only where no such standard had been promulgated, where the food did not purport to comply with a standard, or where the regulations permitted optional ingredients and required their mention on the label. In order to protect the consumer and to absolutely insure him that competing products would not have varying proportions of active or costly ingredients the Congress substituted, in place of informative labeling, standards of identity by prescribing some ingredients, including some which are optional, and excluding all others, rather than by requiring the listing of the number, names, and proportions of ingredients.

While subsection 5(c)(4) provides that regulations promulgated thereunder must be consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, it is important that this language be clarified so that it is clear that subsection 5(c)(4) in no way changes or supersedes the rules and procedures for the listing of the ingredients and composition of a food for which there is a definition or standard of identity prescribed by the Federal Food, Drug, and Cosmetic Act or by statute. Should subsection 5(c)(4) be interpreted otherwise the intent of the protection insured consumers by section 401 of the Food, Drug, and Cosmetic Act would be defeated. Requiring labeling of ingredients and composition of foods for which there is a definition or standard of identity prescribed by Federal regulation would only serve to increase costs to consumers since the evils of unfair methods of packaging, labeling or composition have already been corrected by the Congress. Therefore, it is essential that subsection 5(c)(4) of the Fair Packaging and Labeling Act be clarified so that there is no conflict between it and other protective legislation.

Mr. MAGNUSON. Would the Senator from Ohio, give, for the purposes of the RECORD, an example of the products he means in this particular field? I believe that what the Senator is talking about are dairy products; is that not correct?

Mr. LAUSCHE. Yes, they are dairy products which, under regulations of the Pure Food and Drug Act, have prescription of what the ingredients shall be which measure up to the requirements of the Pure Food and Drug Act. All that my amendment would do would be to make sure that the pending bill would not alter the definitions of what the ingredients shall be under the Pure Food and Drug Act.

Mr. MAGNUSON. I think the Senator's amendment is a perfecting one that would clear up any confusion of interpretation of the bill. For instance, there has been a Federal regulation on the books for years that ice cream shall contain so much butterfat.

Mr. LAUSCHE. The Senator is correct.

Mr. MAGNUSON. And also as to the labeling of ice cream. We have no reason to suggest any change in the present

procedures. For establishing standards of identity, so that at the proper time the chairman would be prepared, with the consent of members of the committee, to accept the Senator's amendment.

Mr. LAUSCHE. Mr. President, will the Senator from Washington yield further?

Mr. MAGNUSON. I yield 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. LAUSCHE. Mr. President, I contemplate voting for the Cotton amendment because I believe that it contains provisions which are needed to protect the housewife as she proceeds to make her purchases of foods, drugs, and other commodities which are sold in our merchandise stores.

With respect to the subject of fraudulent acts by merchants, in my judgment, there is adequate law now to protect the housewife and to bring violators before the bar of justice either through criminal proceedings or through a court of equity which is asked to provide injunctive relief.

We now have on the statute books the Federal Food, Drug, and Cosmetic Act. I should like to call the Senate's attention to the provisions of that act.

That act provides that it shall constitute a fraud, first, if a merchant labels his goods in a false or misleading manner; second, if he offers for sale one food under the name of another food; third, if the article which he offers for sale is so packaged as to appear to be an imitation of another food; fourth, and this is the important aspect of what I am talking about, and I wish Senators would pay particular attention to it—if the goods are placed in a container that is so made, formed, or filled as to be misleading.

To interpret that provision of the act, if a merchant uses a container that is so formed or filled as to be misleading, his act shall constitute fraud.

The bill we have before us aims particularly at protecting the housewife against packaging which is in such a form as to be misleading.

For instance, if there is liquid in a bottle which is so constructed that it is mainly of glass or if the bottom of it is punched so as to reduce the quantity of the liquid contained in it, which makes it appear that the size of the package is larger than it is, it constitutes a fraud.

The discussions in the Commerce Committee revolved mainly about giving another agency of Government the power to control packaging as to size and otherwise.

The language may not be exactly the words which I have used, but that is its purpose.

My query is: Is not this language adequately clear that if a package is so constructed or so formed or filled as to be misleading, the seller of that package is subject to criminal prosecution or to proceedings in a court of equity, in which injunctive relief can be asked to prohibit him further from the sale of that package?

There appeared before the committee a lady who has charge of protecting the

consumers of Pennsylvania. She told of a 3-month investigation to ascertain whether packaging was mislabeled and did not contain the contents which the label indicated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAUSCHE. May I have 5 additional minutes?

Mr. COTTON. I yield 5 additional minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 additional minutes.

Mr. LAUSCHE. At the close of her testimony I asked her:

Now, you allege you have found these abuses among the merchants of Pennsylvania.

She said, "Yes."

I asked her:

Are you familiar with the Pure Food and Drug Act?

She answered:

Generally.

I then read the provisions of the Federal Food, Drug, and Cosmetics Act. I asked her:

Did you call the attention of the officials who administer the Pure Food and Drug Act to what you found?

Her answer was:

I did not.

I then asked her:

Are you familiar with the Federal Trade Commission?

She said:

Generally.

She testified that one merchant had been selling ladders which were labeled, in big, bold type, "14-foot length," when the ladders in truth were only 12 feet in length.

I then asked her:

Did you call the attention of the Federal Trade Commission to that violation?

She said she had not.

I then asked her:

Do you not have laws in Pennsylvania that make such advertising a crime?

She said they did.

I ask her:

Did you do anything about prosecuting the vendor of those ladders?

Her answer was:

No.

Thus we have a situation in which she was asking for the passage of this proposed law in spite of the fact that there were three existing laws under which relief could have been provided.

My position is that under the present law strengthening of the law can be had through the Cotton amendment, rather than to prescribe with greater effectiveness and severity how the labeling shall be made. It is all we need.

Mr. President, I shall vote for the Cotton amendment. I shall reserve judgment as to how I shall vote on ultimate passage of the bill.

I repeat that we have adequate laws on the books now. One might ask, If we have adequate laws, what is wrong with passing another law? My answer is that when we enact another law, we

create another bureau, we hire new employees, we extend the bureaucracy of the Federal Government, at a time when the laws on the books are adequate to achieve the objective.

I yield to no person in my desire to protect the housewife, but I do not subscribe to the idea of adding new laws to the statute books if we have adequate laws already.

Mr. COTTON. Mr. President, will the Senator yield for a question, if I yield him another minute?

Mr. LAUSCHE. I yield.

Mr. COTTON. Is there not another reason why there should not be another law added to the statute books, and that is that under the present law, by the move of the Federal Trade Commission and the Food and Drug Administration officials, those matters are judged by the courts, but under the proposed law the size of packages is to be proclaimed by a bureaucrat downtown?

Mr. LAUSCHE. Yes; I concur completely in that statement.

The amendment offered by the Senator from New Hampshire contains provisions which will remedy some abuses which have been practiced, as I understand—that is, labeling a package as "jumbo" size, or "10 cents off," for example.

Mr. MAGNUSON. That is in the bill.

Mr. LAUSCHE. It is in the bill.

So the weaknesses in the proposed law are being attended to by the amendment offered by the Senator from New Hampshire.

Mr. President, in conclusion, while I voted in favor of reporting S. 985, the Fair Packaging and Labeling Act, to the full Senate, I reserved at that time the right to oppose the bill on the floor of the Senate.

I wish to point out that I want to protect the consumer in the fullest degree against any deceptions practiced by the manufacturers or distributors of packaged articles. There is no issue with me about the need of such protection. The issue is whether or not, under existing Federal laws, the executive branch of the Government has already been vested with coercive powers adequate to protect the consumer and make the manufacturer or distributor answerable to criminal prosecution and injunctive relief favoring the consumer by ordering a complete cessation of practices that are deceptive.

At present, the Federal laws contain two acts which are intended to protect the consumer:

First. The Federal Food, Drug, and Cosmetic Act.

Section 403 of this act states that food shall be deemed to be misbranded (a) If its labeling is false or misleading in any particular; (b) if it is offered for sale under the name of another food; (c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; (d) if its container is so made, formed, or filled as to be misleading.

This section of the act also requires (a) That labels show an accurate statement of the quantity of the contents in

terms of weight, measure, or numerical count; and further (b) that all information required by the act to appear on the label must be prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

While the foregoing major provisions apply only to foods under this act, similar provisions are contained in the act relating to drugs and cosmetics.

It should be further noted that general regulations were issued by the Food and Drug Administration, section 1.9 (1) through (6) amplifying existing law which takes into consideration smallness or style of type, insufficient background, contrast, obscuring designs, and so forth.

Second. The Federal Trade Commission Act.

Section 5 of this act declares unlawful "unfair methods of competition in commerce, or unfair or deceptive acts or practices in commerce."

Section 12 of this act arms the Federal Trade Commission with additional procedural weapons to combat practices of false advertising of food, drugs, devices, and cosmetics, thus giving these broad provisions coverage over all unfair or deceptive packaging and labeling and advertising practices relating to all products in commerce.

It has been my opinion that under these two acts, the Federal Government is vested fully with the power to bring criminal prosecution against manufacturers or distributors who in any manner practice deception in the packaging of their goods and also vests the Federal Government with the power to go into a Court of Equity and procure injunctive relief against any manufacturers or distributors who indulge in such practices.

In addition to the two foregoing acts of the Federal Statutes, each State has laws which subject individual manufacturers or distributors engaged in fraudulent practices in the sales of their goods to criminal prosecution and many States have laws giving the State government the right to seek injunctive relief to procure a remedy against fraudulent practices.

During the Commerce Committee's consideration of this bill, I supported the proposal which requires manufacturers or distributors of packaged goods to print on the outside of such packages in clear, understandable, conspicuous lettering the weight, measure, or numerical count of the pieces contained in the package, and if the content is not in pieces but in weight, then the weight contents should not be identified in pounds and ounces but in ounces alone to simplify the housewives task in making comparisons.

My interest in protecting the buyer is just as deep as the interest of anyone else, but I do not subscribe to the policy of passing new laws on a given subject when existing laws are adequate to reach the desired objective.

Every time you pass a new law of this type, you create new bureaus with their plethora of public employees bringing

about a scandalous, indefensible expansion of public workers duplicating the work that is already authorized under existing law.

I am grateful to the Senator for affording me the time to make these remarks.

Mr. MAGNUSON. Mr. President, I yield 4 minutes to the distinguished Senator from Oregon.

TRUTH IN PACKAGING—WHEN THE CHIPS ARE DOWN

Mrs. NEUBERGER. *Mr. President, the amendment before the Senate today would eliminate section 5 (d), (e), (f), and (g) of the pending truth in packaging bill. These provisions have been labeled by their opponents with attributes that would make a patent medicine salesman blush. We are told that these provisions give the Federal Government power that is "excessive, arbitrary, far-reaching, unique, fuzzy, foolish, harmful, demeaning, morbid, extraordinary, and unrestrained." If I have left out any of the terms in the catalog of supposed sins, I apologize.

Subsections (d) through (g) establish procedures for the development of standards of weights of consumer products. What are these "arbitrary, unrestrained, and morbid" procedures about which we have been warned today?

They are outlined on pages 7 and 8 of the report. I ask unanimous consent that that part of the report be printed at this point in the RECORD.

There being no objection, the excerpt from the report (Report No. 1186) was ordered to be printed in the RECORD, as follows:

A weights or quantities standard proceeding is triggered by the determination of the promulgating authority (HEW or FTC), after hearing, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of the consumer to make price per unit comparisons.

Within 60 days of the publication of such determination in the Federal Register, any affected producer or distributor may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity, in accordance with the voluntary product standards procedures established by the Secretary of Commerce.

The current voluntary product standards procedures, reproduced in an appendix to this report, provide for the establishment of a standard review committee made up of—"qualified representatives of producers, distributors and consumers, or users, of the product for which the standard is sought and any other appropriate general interest groups."

The bill expressly requires that the voluntary product standards procedures provide "adequate manufacture, distributor and consumer representation," as is presently required under these procedures. In selecting consumer representation, the Secretary may utilize the President's Committee on Consumer Interests and the Consumer Advisory Council, the Food and Drug Administration and the Federal Trade Commission, labor and consumer organizations, and also distinguished private citizens not affiliated with any affected industry.

The committee reviews proposed standards and, upon a vote of three-fourths of all its members, may recommend acceptance

of the standard. The Department thereupon distributes the proposed standard to a list of acceptors compiled by the Department, representative of "producers, distributors, users, consumer, appropriate testing laboratories, and interested State and Federal agencies, and to any others upon request."

The Department analyzes responses from the list of acceptors and "if such an analysis indicates that the recommended standard is supported by a consensus, then it will be published as a product standard by the Department. (For the purpose of these procedures, consensus means general concurrence with no substantive objection deemed valid by the Department.)"

The procedures also provide for continuing review and for revision or amendment of any standard if "the standard or any part of it is being used to mislead consumers or is found to be against the best interest of consumers."

Where industry is unable to develop a voluntary product standard within 12 months from the filing of a request with the Secretary of Commerce for the development of such standard (or within 18 months, at the discretion of the promulgating authority, where the Secretary of Commerce certifies to the promulgating authority that there are grounds for belief that a voluntary product standard will be published within a reasonable time), the promulgating authority may establish a standard of reasonable weights or quantities, and fractions or multiples thereof, in which the commodity shall be distributed for retail sale.

Where a voluntary product standard promulgated by the Secretary of Commerce is in effect but is not being complied with, the promulgating authority may initiate a proceeding for the establishment of a mandatory standard. However, such standard may not vary, in substance, from the voluntary standard.

Subsection 5(f)(2) precludes the establishment of any weight or measure in any amount less than 2 ounces and subsection 5(f)(3) prohibits the establishment of any weight or quantity standard which would preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related products of varying densities, such as baby foods, except to the extent it is determined that the continued use of such package for such purpose is likely to deceive consumers.

Subsection 5(f)(d) provides that no weight or quantity standard established under the act shall have the effect of precluding the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the act. A large proportion of reusable bottles are designed for use in vending machines and the committee included this provision to assure the soft drink industry that nothing in the act could require the redesign of all vending machines.

Subsection 5(g) also requires that the promulgating authorities give due regard to the probable effect of regulations imposing weight or quantity standards upon—

- (1) The cost of the packaging of the products affected;
- (2) The availability of any product in a reasonable range of package sizes to serve consumer convenience;
- (3) The materials used for the packaging of the affected products;
- (4) The weights and measures customarily used in the packaging of the affected products; and
- (5) Competition between containers made of different types of packaging material.

Mrs. NEUBERGER. The public hearings, the 18-month delays, the producer-oriented standard review committees,

the exemptions for several industries, and the restrictions on regulating authority specifically enumerated in 5(g) make the charge of "excessive power" against these sections appear ludicrous.

Additionally, the supporters of the amendment before us have chosen as champion of true-blue American marketing efficiency the potato chip manufacturers. - If the case against these provisions is to rise or fall on the strength of potato chips, we are in pretty good shape. Let us dip into the case of potato chips further.

The minority views attached to the report have predicated a situation where the enforcing agency of this bill has determined under provisions of 5(d) that potato chips are being marketed by all producers in so many different sizes that "they are likely to impair the ability of consumers to make price per unit comparisons." Invoking the other procedures in section 5, the result would be a reduction in the number of weights by which potato chips are sold. To quote from the minority views:

In this "voluntary" way, company A would have to discontinue its successful 12-ounce package and switch to an 8- or 16-ounce package. It would have to convert its packaging line and machinery to the new sizes—at an appreciable cost (one witness testified that a new packaging line could cost up to \$400,000). And the cost inevitably would be reflected, in some measure, in the price of the product.

A more inept illustration I could not imagine. Potato chips are sold at the present time in 71 different weights. No one has forced the industry to package chips in 71 different weights. No one can say that this situation has been brought about by consumer demand. Where is the Senator who will stand here today and declare the American consumer has demanded that she be confronted with 71 different package weights in the same product when she enters the market? Using the argument of the minority views, it appears that the potato chip industry has spent up to \$28 million converting its packaging line and machinery to turn out 71 different sizes, and to quote from the minority views, "the cost inevitably would be reflected, in some measure, in the price of the product." In other words, what section 5 would do as far as potato chips are concerned, is to allow the manufacturers to save millions of dollars in packaging, retooling and design, and to gain consumer good will by passing on that saving to the consumer.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield time to the Senator from Michigan.

Mr. HART. Mr. President, the arguments made earlier today by the able Senator from Nevada [Mr. CANNON], and now by the gentleman, the Senator from Oregon [Mrs. NEUBERGER], persuasively have established the desirability that we reject the Cotton amendment.

I am tempted to ask the Senator from Oregon whether she regards herself as a stupid woman or a smart woman, to lay

a predicate for an additional question as to whether we are protecting the stupid woman or the brilliant woman in the proposed legislation.

Mrs. NEUBERGER. That is an unfair question.

Mr. HART. In my book, there is no mind in the Senate more acute, more discerning, or more appraising than that of the Senator from Oregon. I am grateful that the Senator from Oregon, at least, will defend those of us who have long supported the bill from the charge that it is predicated on the assumption that the American housewife is dull-witted.

I have lived with a brilliant woman for 23 years, and every night she reassures me that what is said about the bill simply is not true; that it is a good bill. She attempts to do her shopping economically, but being confronted with fewer fractions in some of these situations would be of enormous value to her.

The Cotton amendment would deny us the opportunity to reduce some of the fractional problems that give rise to the concern that the bill seeks to alleviate.

Senator Cotton's amendment would remove the core from this legislation. Why the core? Because in today's marketplace, the package is the new weight and measure; and essential to an informed shopping choice are weights and measures which facilitate price comparisons. The hearings have established conclusively that in some product lines there are so many differing weights and measures—often a jumble of fractional ounces—that rational price comparisons are almost impossible. Clear labels alone cannot solve this problem.

No matter how smart the housewife, to compare prices she must have comparable weights. Comparing pounds, half pounds, quarter pounds, and so forth, involves easy calculations. Trying to determine the best price as between a 6½-ounce container and an 8⅔-ounce container is something else. And where there are no comparable weights, she must calculate a lowest common denominator. Even an Einstein could not work out the simplest mathematical equation given only numerators. To find that common denominator she must divide the total price of the product by the ounces in the package to determine price per ounce—the lowest common denominator. She must do this for every package of that product competing for her dollar—when competing package weights are not comparable. I repeat, clear labels are of little help with this problem. Such massive calculation should not be required. Yet, because so often it is required, valuable purchasing power is being wasted. I think that some of the figures that Senator CANNON earlier described as having been developed by the Eastern Michigan University analysis clearly support this conclusion.

I ask unanimous consent to have printed at this point in the RECORD a table indicating the magnitude of the calculations involved.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Size	Given			Required	
	Pounds	Ounces	Price	Ounces	Price per ounce (cents)
Large.....	1	4	\$0.33	20	1.650
Giant.....	3	1¼	.79	49¼	1.604
King.....	5	3¾	1.31	83¾	1.564
Home laundry...	16	1	3.99	257	1.553

Method of calculation king size

16 Ounces	
× 5 Pounds	
80 Ounces	
+ 3.75	\$.01564 = Price per ounce
83.75	\$1.310000
	- 8375
	47250
	- 41875
	53750
	- 50250
	35000
	- 33500
	1500 remainder

Mr. HART. Mr. President, States weights and measures officials were aware of this problem long before Congress. Through their collective voice, the National Conference of Weights and Measures, these State officials pointed out at its 48th annual conference:

The consumer is best served and true competition exists when it is possible to make easy price comparisons. To facilitate this, the consumer must be able to make comparisons based on packages of like commodities packed in standard units.

This subsection is also aimed at the practice of reducing contents slightly without making the change clear to the consumer. Harrison Dunning, president of Scott Paper Co., pointed out that there is room for improvement in the field of package weights where there are slight changes made in content without their being readily discernible to the consumer. He suggested as an answer that when there was a change in net contents, it be large enough to be discerned—not large enough in print alone, but also large enough in weight.

This practice also has been referred to as "concealed inflation," because in many instances the price is actually raised on a per unit basis, although the consumer thinks the price has been, in fact, lowered. The reason is that the package looks either the same size or larger and the total price is somewhat lower than the old price.

When the bill was originally introduced, it authorized the Administrator to prevent the distribution of packages of sizes, shapes, or dimensional proportions which are likely to deceive retail purchasers as to the net quantity of contents. This feature has been removed and the committee substitute gives no control over the size or shape of the package. However, because this subsection was removed, it becomes even more important that the provision which the Cotton amendment would strike, remains in the bill. The provision which was removed would have dealt with the slack-filled container in which the consumer

is paying for space in addition to product. It was concerned with those packages wherein the dimensional proportions are so distorted as to deceive the buyer as to the amount inside and it would have dealt with deceptive shapes.

The argument has been made that prominent net weight would lessen the need for such a provision. The same argument, of course, has been made against the reasonable weights and measures provision which Senator Cotton would have removed from the bill.

But the point has also been made that the inclusion of the weight marking should not be a license to permit the manufacturer to cheat the consumer by manipulating the size, weight, and shape of the package.

Because of the difficulty, if not impossibility, of computing price per unit because of some of the practices I have mentioned, the ordinary purchaser is guided to a considerable degree by a visual appraisal of size by comparative dimensions of a package. J. L. Littlefield, chief, foods and standards division, Michigan Department of Agriculture, has said:

Manufacturers appear to be capitalizing on this knowledge of consumers' purchasing habits by utilizing containers which apparently enhance the size and hence the value of the commodity. Buying by container size, the consumer feels she is getting the most of a product. However, a small package right beside it may hold more product at a cheaper cost per unit.

The removal of the provision which was contained in the bill as introduced by several Senators would have authorized regulations with respect to the shape and size of the package.

The effect on the consumer of removing that provision would be that consumer buying would be mitigated by the emphasis that the pending bill places on the clear presentation of unit weight on the face of the package, provided the pending amendment is rejected. Shapes, size, and oversize containers become less important as an element to confuse and mislead the buyer once reasonable weights and measures are established.

I have always had the conviction that the proposal we are now considering in the pending bill has had the welcome and enthusiastic support of the supermarket shoppers of this Nation. But how would the passage of the pending bill affect industry? From an historical point of view, reasonable weights and measures certainly have not injured the liquor industry. The purchaser of liquor, for instance, knows that no matter what shape or size the package, he is still buying a pint, fifth, or quart, and he can readily compare prices between competing fifths. It has been suggested that the housewife buying soap flakes at the supermarket should have the same protection against unfair packaging practices as are now given her husband when he buys whisky at the liquor store.

And certainly industry itself has recognized in many areas the advantages of standardization. President Herbert Hoover, when Secretary of Commerce in 1926, pursued an active program within

the Department of Commerce which has established with industry cooperation hundreds of commodity standards. At hearings, Department of Commerce spokesmen have described the many advantages of its standardization program to producer, manufacturer, jobber, wholesaler, retailer, and consumer alike.

However, to assess the impact of this provision on industry, we must first take a look at how the program would operate under this bill and the exemptions which have been carved out to meet certain apparently valid industry objections.

First—as to procedures—a standard could be established only on a product line basis. The reason is that it makes no sense across the board. Different commodities present different problems and in many, there is no problem at all.

The product line is selected in the first place by the promulgating authority. Can it do this on an arbitrary basis? Not under this act. It must hold formal hearings pursuant to the Administrative Procedure Act and establish that a standard is necessary because existing weights impair the ability to make price-per-unit comparisons. If the agency cannot establish this fact, the entire procedure stops at that point. Once a necessity is established, can the promulgating authority then act in an arbitrary manner? Not by a long shot. If a member of the affected industry desires, he has 60 days to request the Secretary of Commerce to develop a voluntary standard under procedures of the Department of Commerce. The Department of Commerce has been developing such standards since 1921 and industry has never considered itself threatened by Department of Commerce activity in this area. Once a request has been made, the Department of Commerce, with industry participating, has from 1 year to 18 months to develop a standard.

If it is successful, that is it. No FTC or FDA standard could ever vary from a standard voluntarily arrived at and adopted by virtue of Department of Commerce procedures. In fact, industry need not wait for a finding of necessity to be made. It could at any time ask that a standard be set and the promulgating agencies will be bound by that standard. The bill goes further; all existing standards are grandfathered in by this bill.

But suppose a voluntary standard cannot be arrived at. What does the promulgating authority have to do then? At this point, if requested by any affected person, another formal hearing must be held to determine the content of the standard. In determining content, the authority is directed by the bill to consider, among other factors, the following in regard to the affected commodities:

First. The cost of the packaging affected by the proposal;

Second. The availability of any commodity in a reasonable range of package sizes to serve consumer convenience;

Third. The materials used for the packaging affected commodities;

Fourth. The weights and measures customarily used in the packaging; and

Fifth. Competition between containers made of different types of packaging material.

After this second set of hearings, a standard may be established. If anyone considers it arbitrary and capricious, he has available as watchdog the appropriate circuit court of appeals.

I have gone to some length to detail these procedures to make clear that the "excessive power" argument of Senator Cotton just does not make sense in view of the actual provisions of the bill. My own experience is that most administrators tend to be reasonable and receptive to congressional intent. But, assuming the most arbitrary, capricious, wild-eyed administrator possible, this legislation has encircled him with enough procedural fences to assure that any final result must make good business sense.

However, procedure is only part of the story.

The bill makes certain that the administrator will not even have a shot at many of the prevailing methods of packaging—many of which have been used as strawmen to attempt to convince Congress why this bill should not be passed.

First, practically all products packed in cans will be exempt from this legislation, including all soups packed in cans. Why? Because almost all commercial can sizes now in use are covered by a Department of Commerce commodity standard. As I have explained, these can sizes—the Nos. 2, 303, and so forth—are grandfathered in.

Second, many commodities not packaged in cans cannot be forced to give up their present containers under another specific exemption in the bill, 5(f)(3). If an industry uses a standard container for packaging related products of differing densities, the promulgating authority cannot upset the weights these packages hold. Spices, jams and jellies, cookies, and detergents, among other products, may fall into this category.

Practically all arguments as to the cost to the manufacturer if this bill is passed ignore this provision. It has been pointed out that in cookies or spices, for instance, a single packaging line may be built for a specific standard container. This packaging line fills that container with different kinds of cookies or spice having different densities so that the weight in the container varies. We have been told that if weights were standardized in multiples of 2 ounces, for instance, a separate packaging line would have to be established for each kind of cookie or spice. This is nonsense, and this exemption I have discussed has been put into the bill to insure that such a result cannot occur.

Third, no weight can be established under 2 ounces, 5(f)(2). This prevents the administrator from dealing with trifles and, incidentally, takes care of the problems relating to candy bars and vending machines which the candy manufacturers have been concerned about. Practically all candy bars and, indeed, standard lines of spices, are exempted from the establishment of weights and measures by this provision.

Finally, the problems of bottlers using returnables or reusable glass containers has been responded to in (5) (f) (d). All such containers have been grandfathered in and no administrator can preclude their use.

This legislation has gone through change after change to meet those industry objections which appear reasonable and to guard against any abuse of authority by an administrator. S. 985, as amended, is now a "barebones" bill. The Cotton amendment would trim off the principal remaining strong bone. The manufacturers have received the procedural safeguards and exemptions to which they are entitled. Now, at long last, let us focus on the consumer.

The American shopper is also entitled to something. What she is entitled to is the fair packaging and labeling bill, without any further watering-down amendments.

I regret that the Senator from Ohio had to leave the floor to attend a committee meeting. But anybody who thinks that existing law is adequate should first go to a supermarket; or second talk to ladies who do visit supermarkets two or three times a week.

The existing law is premised on the theory that it outlaws conscious deception behind some practice. This requires proof of specific intent, and it moves on a case-by-case basis.

But the consumer, faced with a shopping decision, is seeking a means readily to identify the per unit cost—not whether a manufacturer set out consciously to deceive her or not. This bill does not seek to move against a field that has been sown with confusion in order to deceive. This bill seeks to enable the shopper to make what is really the most basic judgment essential to a rational buying decision—and that is to identify the cost per unit.

The Senator from New Hampshire contributed importantly—in fact, was the principal contributor—toward strengthening the label information feature of the bill. But as I suggested at the outset, I believe that this alone will not respond to the problem of proliferation in a product line on the supermarket shelf; and it is for that reason that I hope very much that the Senate will reject the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. I yield 5 minutes to the distinguished Senator from Colorado.

Mr. DOMINICK. Mr. President, I am delighted to obtain time to speak on this bill, particularly on the pending amendment, and I take this opportunity because I happen to be one of those who supported the Cotton amendment in the committee. I signed the minority views, I signed the individual views with the distinguished Senator from Vermont, and I voted to report the bill to the floor. So this gives me, I think, a pretty broad scope, particularly in view of the extensive consideration which the chairman of the committee and the other members gave to the bill in the executive sessions of the committee.

I think it is interesting that, by and large, this bill is called and was called

from the very beginning "truth in packaging." It is a nice slogan. It sounds delightful.

But I would say that in like manner, it might be appropriate to call the Cotton amendment "freedom of choice in the marketplace," because that would be the effect of passage of the amendment. It would give the consumer the right to determine for herself which products she wanted to purchase in the marketplace, free from having the packages preselected and predigested by the Secretary of Commerce, before the consumer ever gets to the marketplace.

It should be kept in mind, I think, that the bill deals with the manufacturers' packages. It does not deal in any way with the retail price of those packages; and that is why we have had tremendous difficulty in trying to put the bill in workable form.

For example, if a retailer should decide to take a package and mark it up by 50 percent over what the manufacturer charged, there is nothing in the bill that would prevent him from doing so. The only way that we would have any control would be by requiring that the contents of the packages be prominently displayed, and thereby give the consumer the right to determine, on a per ounce basis, the cost of the product within that package.

We originally had some suggestions that we should, wherever we had a pictorial representation on a package, make sure that what was in the package conformed to what was in the picture. But as was pointed out to the distinguished chairman of the committee, the Senator from Washington [Mr. MAGNUSON], that would mean that if you had a picture of a tuna fish on a can of tuna, you would have to have the whole fish in the can; otherwise you could not sell it; or if you had a picture of a bull on a package of Bull Durham tobacco, presumably the bull would have to be in the package before you could sell it. Many other illustrations could be listed; and after discussing the matter at length, we eliminated that provision from the bill entirely.

It seems to me that was the first step in solving the problem that the Senator from New Hampshire is trying to reach, once again, with his amendment. That is, we were trying to provide a mechanism for the consumer by which he or she can make a fair estimate of the contents of a package, and from that estimate, be able to determine what the per unit price is.

We were also trying to retain for the consumer the right of freedom of choice. If we put into the hands of the Secretary, as we have in sections 5(d), (e), (fg), and (g), the power to preselect what units can be distributed in a market, we have thereby, it seems to me, exercised by executive operation in Washington a form of censorship over advertising and a form of predigestion of what products can be marketed in the marketplace.

It is for that reason, because I do not believe that the Government should be injected into that phase, of the marketplace that I have supported the Cotton amendment from the very beginning. It does not seem right to give a Secretary

the power to regulate the manufacturers as to what type of unit or package they can present to the public.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. COTTON. Mr. President, I yield 4 minutes to the Senator from Colorado.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized for 4 minutes.

Mr. DOMINICK. It does not seem right to me to give a Secretary the power to go to any one of the manufacturers that one can think of and to have the Secretary say to him, "You can only package in 4-, 8-, or 12-ounce packages."

This is nothing more than a form of censorship over advertising, which is essentially what packaging of products is, and I find it objectionable. Under the phraseology we have in the pending bill, Congress is giving the Secretary, perhaps for one of the first times in history, the power of censorship over the method of distribution of packages and over the advertising which comes from it.

I think that is going beyond what the bill really is designed to do. The bill really is to enable both the manufacturer and the consumer to determine what is in a package and to do it readily and easily when they go into the marketplace.

Mr. President, if we get rid of what I think are fairly obnoxious provisions in the pending bill, it strikes me that at that point the committee will have accomplished a major job in decreasing some of the problems the ordinary consumer has in the marketplace now, and we will have required, through the assistance of the Senator from New Hampshire [Mr. COTTON], as well as the majority party, a clear, unequivocal statement on the front panel of the package, as to the amount of ounces in the package. We will have said: "You cannot have denominations such as 'jumbo,' 'large,' 'full' or 'amplified' quart or other adjectives that have an effect on the quantity in the package."

But these things would be coupled with severe restrictions in the marketplace unless we adopt the Cotton amendment. Unless we adopt the Cotton amendment, Congress, for the first time, will be getting into the censorship of advertising, interference with free play of the market, and the method of distribution of goods in our retail establishments.

I thank the Senator.

Mr. MAGNUSON. Mr. President, how much time does the Senator from New Hampshire [Mr. COTTON] have remaining?

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has 19 minutes remaining.

Mr. MAGNUSON. How much time does the Senator from Washington have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Washington has 29 minutes remaining.

Mr. MAGNUSON. Mr. President, may the Senate be informed again of the unanimous-consent agreement on the Cotton amendment?

The ACTING PRESIDENT pro tempore. The clerk will read the unanimous-consent agreement.

The legislative clerk read as follows:

Ordered, That on Wednesday, June 8, 1966, the Senate proceed to vote at 4 o'clock p.m. on the amendment offered by the Senator from New Hampshire (Mr. Corron), No. 572 to S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Ordered further, That on that date, during further debate on the amendment (No. 572) the time between noon and 4 o'clock p.m. be equally divided and controlled by the Senator from New Hampshire (Mr. Corron) and the Senator from Washington (Mr. Magnuson), or their designees. (June 2, 1966.)

Mr. MAGNUSON. The vote will be at 4 o'clock; is that correct?

The ACTING PRESIDENT pro tempore. The vote will be at 4 o'clock, unless the unanimous-consent agreement is modified.

Mr. MAGNUSON. Mr. President, I yield myself such time as I may need for the purpose of a short statement.

Mr. President, the opponents of the sections which have been discussed here today, 5 (d), (e), (f), and (g), have in some very fierce and eloquent prose, denounced S. 985, if this section remains in the bill, as a "vicious bill," a "dangerous and arbitrary bill," as a "harmful bill to consumers," a bill that will "reduce competition, infringe on the consumer's freedom of choice," a bill that would, with provisions 5 (d), (e), (f), and (g), "increase costs and prices" and "confer on Federal officials virtually unrestrained power over critical aspects of trade."

Mr. President, is it "vicious" to give the consumer some hope of making price comparisons among competing products without having to make three-place calculations on a slide rule or hiring a certified public accountant as a consultant?

Is it "dangerous and arbitrary" to put some life into the voluntary products standards procedures of the Department of Commerce, instituted by then Secretary of Commerce Herbert Hoover in 1926, as the basic framework within which to encourage the development of reasonable weight and quantity standards by industry?

Will the committee bill, which eliminates from the original bill all regulation of the shapes and dimensions of packages, "confer on Federal officials virtually unrestrained power over critical aspects of trade"?

I have had great difficulty recognizing, among all these phrases, the measure that the Commerce Committee reported by a majority of 14 to 4. It strikes me that the bill which the minority report assails, has never existed except in the imaginings of the opponents of the bill.

With the exception of sections 5 (a), (e), (f), and (g), the committee, as I recall, was in fair agreement, and probably would have been in unanimous agreement had not these sections been in the bill. All of us—the entire committee—have said on many occasions that this is a step in the right direction and is a good consumers' bill.

Nevertheless, the members of the Committee on Commerce were genuinely concerned that the bill as originally in-

troduced might have involved substantial direct Federal intervention in the manufacturers' free choice of package, shapes, and dimensions. Although those provisions were ringed around by many procedural safeguards, the committee as a whole—in fact, I believe, again almost unanimously—was reluctant to impose restraints on innovation in package design. Therefore, the bill as reported, eliminated from the bill as originally introduced by myself, the Senator from Michigan [Mr. Hart], and many other Senators who were cosponsors, subsequent revisions and sections, one providing for the regulation of shapes and dimensions, another providing for the regulation of label illustrations, and third, providing for the imposition of standards of measurement other than quantities such as ergs of cleaning power for detergents, for instance. Fourth, prohibitions against fractional ounce designations on labels. At the same time, the committee was disturbed by evidence that the proliferation of awkward and fractional weights and quantities—such as illustrated in the Senate today by the Senator from New Hampshire—in many product lines left the consumer really helpless in calculating the simple, basic cost per ounce which would enable her to make price comparisons.

The committee believed—and still believes—that the consumer is entitled to make price comparisons among competing products. Here is the point which the Senator from Ohio, in his statement a few moments ago in support of the Cotton amendment, sort of missed. We could still have a product with a truthful label, so truthful that the Food and Drug Administration could not move against it. But packaging practices among competing producers could be very confusing to the housewife.

So the committee believed that the consumer is entitled to make price comparisons among competing products, so long as this end can be achieved without impairing the basic freedoms of the market place, and without turning the bureaucracy loose in any supermarket.

It was for these very reasons that the committee turned to the voluntary product standard procedures of the Department of Commerce. Although these procedures provide consumer representation as a safeguard, the initiative in proposing such a standard comes from the industry itself. If there is—and a lot has been said about this today in the Senate—a legitimate consumer demand for any particular weight or quantity, such as a 12-ounce size package of potato chips, or any other size package, manufacturer and distributor representatives on the standards setting committee will surely recognize and honor such a demand.

On the other hand, if there exists a bona fide customer demand for only 10 or 12 or 20 different weights, instead of 71 or 100, then the industry may well adopt on its own accord a voluntary standard limiting any product or any package to these sizes.

As for the newcomer to the market who seeks to develop a distinctive pack-

age with which to differentiate his new product, nothing in the committee bill that I can see—and we have gone over it over and over, literally scores of times—there is nothing in the committee bill which would prevent him from utilizing the full resources of the packager's art to develop the most attractive and distinctive package on the shelf.

The minority views assert that a voluntary standard developed under the bill, "can be readily converted to mandatory regulations," but the bill recognizes that no standard can be established without a hearing and the opportunity for judicial review, and that the Secretary must take into consideration, in setting such standards, the cost of packaging the products affected, the availability of any product in a reasonable range of package sizes to serve consumer convenience, the materials used for the packaging of competitive products, the weights and measures customarily used in packaging competitive products, and competition between containers made of different kinds of packaging material.

Thus, Mr. President, S. 985, with sections 5 (d), (e), and (f), is a bill which will stimulate and not "reduce" competition, which will promote and not "infringe on" the consumer's freedom of choice, which will decrease and not "increase" costs and prices, and which will confer upon Federal officials, in my opinion, a narrowly restrained and not anywhere close to "virtually unrestrained" power.

Now, Mr. President, I am convinced that the fair packaging and labeling bill, which the Committee on Commerce has reported, will serve the compelling needs of the consumer while preserving the basic freedoms of the American marketplace. The Committee on Commerce has taken just pride in this legislation. It represents painstaking and extended efforts by the committee and many hours of hearings and executive sessions. I am therefore hopeful that the product of that effort will be legislation which will mark the 89th Congress as history's "Consumer Congress."

Mr. President, the pending bill is necessary and prudent legislation. I believe—and I have said before and I believe that Members of the Senate will agree—that no single piece of legislation of recent years has so engaged the interest and the support of the American homemaker. It is to the American homemaker, to prevent the needless harassments and confusions which she meets in trying to shop for her family needs, that the proposed legislation is directed.

Mr. President, as I said last Thursday, this is probably the most important piece of legislation to come before Congress in the so-called consumer category in many, many years. It is the culmination of many consumer bills which the Senate Committee on Commerce has worked on and successfully passed in Congress. The Senator from New Hampshire and I have worked and cooperated—as well as the rest of the members of the committee—on a "Truth in Fabrics" bill which requires the labeling of what is in textile products. That

became confusing as technological advances proceeded in mixing cloth—natural wool or cotton—with synthetics.

The Commerce Committee worked long and hard to establish what the "Fur Labeling Act," which was almost as complex in that field as the subject is in this field. It was considered by the committee and by Congress, was passed by Congress, and is now the law of the land.

I heard at that time some of the same arguments now being made about harassing merchants in the fur and clothing business, but I find that most of the reputable people in the fur and clothing business are thankful. Surely, the consumers are.

We had some problems in that connection with respect to labeling synthetics by the generic names of an animal. There were purple minks, blue minks, white minks. We had labels of "mink-like" which were advertised. There were all kinds of names for muskrat furs. I think there were 89 different labels for muskrat furs.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. MAGNUSON. Let me finish my remarks on furs first.

Mr. COTTON. Go right ahead.

Mr. MAGNUSON. As I recall, there were 89 different types of muskrat furs. It made the muskrat inhabiting Louisiana feel very important. It seemed that he had earned a great many elegant names. However, the fur labeling bill was passed.

Again, as we must in the modern world, we ran into another problem. The Senator from New Hampshire and I both were active on the Hazardous Substances Labeling Act. Many deaths had been caused as a result of failure, not necessarily to label substances, but to label them in such a way as not to injure or cause the death of people.

We went into another consumer problem. We had to investigate how iceboxes were made. Children were getting into iceboxes or refrigerators, closing the doors behind them, and were then unable to get out.

So there has been a long history of consumer legislation since the Wool Labeling Act.

Only 3 weeks ago we reported to the Senate from the Commerce Committee another consumer item, the Tire Safety Act, in which it is demanded—and we hope the bill will be passed in the House in this manner—that tires be accurately graded. Like the housewives in the consumer market, most Americans who buy tires are confused as to what kind of tires they are buying or whether they are the right tires for the cars they are driving.

We are in process in the Committee of considering a complete automobile safety bill which will certainly be in the consumer's interest.

So I think the bill before us is not radical. There are many precedents for Congress to go into the consumer field. There are ample precedents for the "Fair Packaging and Labeling Act." It is a step in the direction not only of protecting the American consumer, but of seeing to it that he gets a dollar's worth for a dollar spent.

No one suggests that, in the food or package field, the American wife does not get good products. She probably gets the best buys in the world.

As a matter of fact, we Americans have no trouble obtaining a plentiful supply of food. The percentage of the housewife's budget spent for food is a much lower percentage than that of any other country in the world.

Even though we have achieved that condition under our great American free enterprise system, which has produced remarkable results, we want to go further and make sure that when a housewife buys products, she knows what she is getting, and gets a dollar's worth for every dollar spent, that she gets a good product, and that she will have the ability to pick out the product she wants in her busy day.

This is the most important piece of consumer legislation the Commerce Committee has had before it, and it has had many bills before it. We are proud of those bills, and we take great pride in the one pending before the Senate.

The only controversy involved in this bill—and we gave serious thought to it—is with respect to section 5 (d), (e), (f), and (g), which is the subject of the amendment of the Senator from New Hampshire.

I hope the amendment will not be adopted, because I think it will seriously hinder and handicap the whole purpose and spirit of the bill, and we want to achieve the objective we set out to achieve.

Mr. COTTON, Mr. President, will the Senator yield? I shall be glad to take this time out of my time.

Mr. MAGNUSON. I yield.

Mr. COTTON. I should like to say to the distinguished Senator from Washington, chairman of the Commerce Committee, that he is eminently correct when he says it was the overwhelming opinion of the committee that this is a good and a needed measure.

I would call attention to the fact, and let the RECORD show, that the vote of the committee in reporting the bill, 14 to 4, was not a significant vote so far as my amendment is concerned. The vote on my amendment was, I believe, 14 to 11.

However, I should like to join in commending the distinguished Senator from Washington, chairman of the committee. The work done by the Commerce Committee on the bill, as I have already said, was very constructive, very able.

The bill as it came to our committee was, in many respects, in my opinion, an impossible measure. It was molded into a very effective and practical measure in almost all respects. The distinguished Senator from Washington, chairman of the committee, in conducting both the hearings and the deliberations of the committee, was fair and considerate, as he always is, and constructive in the way he handled the entire problem.

I join in commending him for that, and I join my friends on the other side in expressing the opinion that 90 percent of this measure is good and constructive.

I shall take the last few minutes of my time to simply summarize why I feel the portion of the bill covered by the Cotton amendment is not constructive and

would not be beneficial, but I certainly want to commend the distinguished Senator from Washington, chairman of the committee.

(At this point Mr. HART assumed the chair as the Presiding Officer.)

Mr. MAGNUSON. Mr. President, I yield to the distinguished Senator from Montana as much time as he may desire.

Mr. METCALF. As a longtime supporter of truth-in-packaging legislation, I happen to be one of those who think that the American housewife can make very effective use of the kind of information that S. 985 will provide. I thought I had heard most, if not all, of the scare arguments which the opponents had been able to concoct. At an early date we were warned that passage of this measure would mean that supermarket shelves would be lined with khaki-colored packages. That was so preposterous that even those who want to continue deceiving the consumer pretty much abandoned that story. Then we heard a lot of generalized tales of manufacturers' woe. Truth in packaging, the doom and gloom specialists from Madison Avenue told us, would take a nasty crack at the American way; it would interfere with basic rights, such as the right to confuse and mislead; it would send us down the road to something or other. Well, most of these arguments were so patently absurd that all they did was supply a few laughs.

In the last few weeks, however, the fiction-writing experts who oppose truth in packaging have gone back to their typewriters, and now we are beginning to hear some fresh tales of horror.

One of the most intriguing of the new tales is told by the authors of the minority views in the Senate report on the Fair Packaging and Labeling Act. The tale concerns a rather interesting company which has been packaging and selling potato chips in nothing but 12-ounce bags. It has, we are told by the writers of this gripping saga of business history, found the support of "loyal customers" who appear to be addicted to potato chips when they come in 12-ounce bags but who rebel at the thought of buying chips in 8- or 14- or 16- or 24-ounce bags. As the minority views authors envision it, this specialized company could be driven from business by the truth-in-packaging bill. Forced to put their chips in 8- or 16-ounce bags, the company, we are told, will resist, choosing to go out of business. Result: calamity.

However gripping this tale may be, it is, of course, pure fiction. And unlike some fiction, this story does not conform to reality. The Fair Packaging and Labeling Act provides ample protection for just the kind of situation with which the imaginative Senators who submitted the minority report are so deeply concerned. Section 5(g) of the bill specifically requires that in making determinations about the weights or quantities in which consumer commodities may be distributed, the promulgating authority must take into account the effect of his regulations on the cost of the packaging of the commodities affected, the availability of sufficient package sizes to serve consumer convenience, and the weights

customarily used in the packaging of the affected commodities. If the 12-ounce potato chip bag has been so widely accepted as the minority report indicates, the promulgating authority would be unable to avoid this fact in setting reasonable product package standards. But even if the popularity of the 12-ounce size could not be clearly established, the ability of the hypothetical company to shift from the sale of chips in 12-ounce bags to 8- or 16-ounce bags can safely be assumed. Time and again American businessmen have demonstrated their ability to adjust their packaging designs and sizes to meet new market conditions. It is preposterous to think that the company which has been given center stage in this drama is so inflexible that it could not readily adapt to the challenge of selling its product in a slightly different bag size.

Deceptive, misleading efforts to defeat truth in packaging demonstrate how unpersuasive are the arguments against the bill. The consumer needs better information in making intelligent purchase decisions. S. 985 provides that help and it should be passed, and it should be passed today.

I thank the Senator from Washington for yielding me this time and giving me this opportunity to speak.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from Texas [Mr. YARBOROUGH] and I reserve 1 minute to myself.

Mr. YARBOROUGH. Mr. President, I rise to speak in support of the Fair Packaging and Labeling Act, S. 985. In my humble judgment, this is a most conservative and practical bill, designed to bring greater competition in the marketplace. Competition—truly free competition—is based upon the notion that the individual purchaser can make a rational judgment between purchases that he makes. More than 8,000 promotionally designed packages now confront the housewife, more than 5 times the number available two decades ago. The shopper today takes even less time to shop than she did at that time. Too many of our packagers today design their packages in the most confusing manner possible so that the consumer will not be able to comparison shop in the short time in which she has to shop.

Here are some of the difficulties reported by various groups and individuals:

Potato chips now come in 74 different size packages—Consumers League.

The Oil, Chemical and Atomic Union News—April 26—reported: Two "giant size" detergent packages are in identical size boxes, but one actually contains approximately 33% less weight.

The San Francisco Chronicle columnist "Our Man Hoppe" reported the following: "Did you know you can't buy 1 lb. of rice? Not in my supermarket you can't. You can buy 14 oz. for 29c, 12 oz. for 25c, 1 lb. 12 oz. for 35c, 1 lb. 8 oz. for 47c, or 2 lbs. 10 oz. for 59c."

Secretary of State (Pennsylvania) Genevieve Blatt, reported the following: Soap variations in liquid detergent in one supermarket: 1 pt. 6 oz. 62c, 8c off; 12 oz., 35c, 5c off; 28 oz., 52c, 15c off; 1¼ qts., 59c; 1 qt. 4 oz., 71c, 7c off; 1 pt. 3 oz., 36c, 3c off; 15 Fl oz., 29c, 10c off.

These are a few examples of the many that have been reported to the Committee on Commerce. The reason that this matter has come to the attention of Congress at this time is because of the great increase in prepackaged goods in our supermarkets. The Consumers Union estimates that 85 percent of the goods in supermarkets are prepackaged. Formerly, if there was a problem as to the contents or the product, the consumer could bring it up with the store owner and the matter could be rectified or explained.

Today, when a matter of packaging or contents is brought to the clerk at the checkout stand, the clerk says, "Yes, I know. Gee, isn't it terrible?" But neither he, the local manager, nor the small independent grocer can have any impact on the packaging process. Consequently, the store owner, store manager, and clerk are asked to handle merchandise and packages which many of them feel are not correct or ethical, but these retailers are powerless to do anything about the obscurity in packaging.

Today, more than \$2 million a year is spent in food advertising, including over \$1 billion in conventional advertising plus \$200 million for advertising allowances paid out to retailers. Over \$100 million is spent for TV food advertising alone. The most conservative estimate is that the average consumer loses about 10 cents out of every dollar that he spends on food and food products.

Mr. David Haven, chairman of United Associated Grocers Co-op Co., stated in his testimony that the manufacturers' chief, and perhaps only, aims are to grab shelf space. He said:

Companies keep coming out with more and more sizes when 2 or 3 are enough. Corn flakes are boxed in 5 sizes—4 or 5 sizes for detergents, and cokes come in 5 sizes.

When I was a boy you would go into the store and order 1 pound of this and one half pound of that, and all you would have to worry about was that the scales were not rigged or that a spare thumb was not on the back side. We have passed laws to insure that weights and measures are correct, but none that packaging accurately reflect the correct weights and measures. Too many packages package the consumer.

Today, most of our packaging is not even done in the same State as the store in which sold, but it is processed, weighed, and packaged in a factory and shipped almost anywhere in the country.

In 1790, George Washington, our first President, expressed his deep concern for uniformity in the currency, weights, and measures of the United States. The packaging industry now, in effect, sets the weights and measures as to food, and therefore this matter is of concern to the Federal Government. Our Food and Drug Administration, with the legislation already on the books, has simply been unable to cope with the volume and the type of violations and problems emerging in the packaging industry.

This spring, the farmer has been blamed for increased food prices. A

strong argument can be made that the increase that the consumer has felt is more related to the increased amounts of money put into packaging and advertising and merchandising than to the price paid to the farmer. Bread is a good example: Last year the bread companies told us that giving a little bit more to the farmer would raise the cost of bread by 2 cents. Congress reacted by increasing the income of the wheat farmer, without any resulting increase in the cost of grain to the baker or bread company. The price still went up 2 cents a loaf. In 17 years the average cost of bread has increased about 10 cents a loaf. Out of this increased cost, the farmers have received none of the increase, and the marketing system has received the dime.

It is very interesting to note that in the past year there has been a great increase in variety and style in packaging, some of which has been good and some of which has caused confusion for the consumer. Some studies have shown that the average housewife goes into the supermarket with plans to buy 4 items, and ends up with 14. Packaging is an important aspect of sales. While the opponents of this bill indicate that the housewife is smart enough to decipher the prices, compare fractions of ounces and come up with the best buy, I here plead for the man also, the husband who stops by the store to pick up a few items for his wife and perhaps does a little impulse shopping. I urge protection for this helpless man who does not often realize that the 10 cents off on the label does not mean 10 cents off the market price, or that the large size of one brand may be actually smaller than the middle size of another brand. He may forget that the "big 15-ounce giant size" may be actually less than the regular quart size.

Recently, two friends of mine went shopping in a major supermarket and purchased 14 different types of products. Being inquisitive males, they stopped to compute on paper which were the best buys. Fortunately, this supermarket was open all night, because although they started right after dinner, they did not complete their shopping until almost 11 o'clock. It was difficult for these two men to figure the differences between 11¾ ounces compared with 15¾ ounces compared with 21.09 ounces. We only ask that packages be labeled and packaged in the same manner as the canned goods and liquor industries have done for several generations.

I have been told that any man can go in and pick up a fifth of bourbon from among many brands without using a slide rule or computer, and that the bottles are creative in design and packaging. Canned goods are similar: You know that a No. 10 can is a No. 10 can. While many efforts have been made to establish standards in other food products, they have not succeeded. If we are to have standard weights and measures in the food industry, we must have compulsory standards enforced by adequate government controls. On behalf of the millions of men who make the

pilgrimage to the supermarket to pick up a few items for their wives, as well as the women who do most of the shopping, I urge the passage of S. 985, the fair packaging and labeling bill, without amendments.

Mr. COTTON. There are 10 minutes remaining. Is that correct?

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has 12 minutes remaining, and that is the time that is left.

Mr. COTTON. I yield 4 minutes to the Senator from Nebraska. I have 12 minutes. That will leave me 8 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire has 12 minutes, and the Senator from Nebraska is recognized for 4 minutes.

Mr. HRUSKA. Mr. President, as to this bill, I wish to observe that for 3 years it was pending before the committee on Judiciary and the Subcommittee on Antitrust and Monopoly, of which I am a member. Later on, there was a little shopping done, and the bill went to another committee, the Committee on Commerce. But, in essence, the bill stayed very much the same.

My position generally was that the laws presently on the book are adequate for virtually all of the purposes to which the bill allegedly aspires, with the exception of the area that would be eliminated by agreement to the Cotton amendment.

That part of the bill in my judgment goes too far into the management and control of industry. For that reason, it is very objectionable to the Senator from Nebraska in its present form.

I spoke of one other aspect in debate last week. That aspect was the antitrust implications of the bill. In my judgment the bill should be referred for the purpose of having the Committee on the Judiciary consider its implications in the field of antitrust law in order to avoid that which could be very harmful to industry and to consumers.

If the Cotton amendment were agreed to, I shall find it possible to vote for the bill under certain circumstances. Thus, I understand that if the amendment is agreed to other amendments will be proposed relating to other portions of the bill. I shall be guided in my vote on the bill by the disposition of those amendments and by the granting of sufficient consideration to the antitrust implications of the bill.

It is for that reason that I strongly support the amendment offered by the Senator from New Hampshire.

I yield back whatever time I might have remaining.

Mr. COTTON. Mr. President, I yield 1 minute to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. Mr. President, the bill as it presently stands is just another harassment of American industry.

I do not note any great consumer demand for this measure. I am a little concerned about all the crocodile tears that we are shedding here for the great American consumers. To begin with, the bill assumes that the housewife is

dumb and does not know what she is doing.

If we want to do anything for the American consumer, why do we not stop all Government spending policies, including deficit spending which is robbing the consumer of his spending power?

I am hopeful that the very fine amendment offered by the distinguished Senator from New Hampshire will be agreed to.

Mr. COTTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 7 minutes remaining.

Mr. COTTON. Mr. President, I remind the Senate, before we vote, exactly what this amendment is and what it means.

This is a good bill. It was made a good bill. It came to the Committee on Commerce, I think, as an impossible measure, and it was infinitely improved.

There is presently in the bill, with the approval of, I think, every member of the Committee on Commerce, an iron-clad provision that on the principal panel of every package, bottle, and receptacle on the shelves of our grocery stores there shall be in large print—and the size and color of the print is in the control of the Secretary of Health, Education and Welfare—the exact amount in ounces of the contents in those packages so that as the housewife goes down the aisle, perhaps leading her squalling child by the hand, and pushing a gocart, with her husband waiting outside in the automobile for her, she can see at a glance how many ounces are contained in the package. She can then tell whether this package contains 14 ounces and this one 18 ounces. She does not have to compute the content of the package or make any elaborate comparisons.

This is a clarity-in-labeling provision. In addition, the committee agreed to confer upon the Secretary the power to regulate the use of the words: "small," "medium," "large," "the family size," or "the economy size." Whatever and whenever the Secretary finds that such words have a tendency to deceive or impair price comparisons, he shall have the power to prohibit or to control the use of such words so as to eliminate the deception and facilitate price comparisons.

The bill also contains power for the Secretary to regulate the use of the word "servings." Furthermore, the Secretary would have the power to control the use of the so-called cents-off labels on packages and bottles.

To this point it is a good bill. It is a fair labeling bill. It is a clarity-in-labeling bill. The provision would make the content of the packages perfectly plain to everyone shopping in the stores. People could see exactly how much is contained in a package. There would be no confusion. There would be no misleading terms.

The one objectionable feature left in the bill is the power of the Secretary—and we can sugarcoat it all we want with the various preliminary agreements—the end result is the power to say that the manufacturer can put his product out only in a certain size package, a half

pound or 1 pound. The Secretary of the Department of Health, Education, and Welfare can prescribe how many sizes can be produced. The bill would permit that. I do not say that the Secretary would necessarily do it in every case. However, it is not wise for Congress, in my humble opinion, to vest in official downtown Washington the power to standardize packages in American industry.

What would this do to the consumers? It would cost the consumers more because if a company is obliged to spend \$1 million to change its machinery and equipment, who would pay the \$1 million? Do not tell me that the company would pay it. They would charge the amount back to the consumers. It would also penalize small business and new business, the fellow who is trying to get a place in the market. That man wants to devise some kind of standard size, attractive package to get into business. Under the pending bill, he would have to put his product in the same size package that is standard for other products. That would mean that the big corporations, the established corporations, which have been in business for years would have the advantage, and the new corporations would not.

With this provision contained in the bill, it is not a consumer bill. It is not a fair bill. It would be exceedingly dangerous.

Without this provision, the bill would be a good bill.

If my amendment is agreed to, there can be no question of the bill having the endorsement of the Senate. While I have no right to conjecture or speculate, I do have reason to believe, and do believe, that if the bill is passed by the Senate and goes to the House of Representatives without this provision which my amendment would knock out, the bill would meet with the speedy endorsement of the House of Representatives.

My amendment would expedite the bill. It is not a maneuver to defeat it. That is the story of the Cotton amendment. I hope the Senate will adopt it.

Mr. MAGNUSON. Mr. President, have I 1 minute remaining?

The ACTING PRESIDENT pro tempore. The time of the Senator from Washington has expired.

Mr. COTTON. Mr. President, I will yield 1 minute to the Senator from Washington; but, first, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, without laboring what the Senator from New Hampshire has said, most of the members of the committee do not believe that this section will do what he says it will. If the great fears of the Senator from New Hampshire were to materialize in some instance, that instance would be highly extraordinary.

The imposition of any mandatory standards would have to arise from the failure by the Standard Review Committee, after 18 months, to develop an acceptable voluntary standard.

The reason this provision is included in the bill is to stimulate voluntary industry action, in case some unusual situation arises.

I hope the amendment of the Senator from New Hampshire will be rejected.

Mr. COTTON. Mr. President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

All time having expired, the question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLELLAN (when his name was called). On this vote I have a pair with the junior Senator from Maryland [Mr. TYDINGS]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore I withhold my vote.

Mr. MANSFIELD (when his name was called). On this vote I have a pair with the Senator from Colorado [Mr. ALLOTT]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

The rollcall was concluded.

Mr. LONG of Louisiana. I announce that the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. BAYH], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New Mexico [Mr. MONTOYA], the Senator from Utah [Mr. MOSS], and the Senator from Maryland [Mr. TYDINGS] are absent on official business.

I also announce that the Senator from New York [Mr. KENNEDY] and the Senator from South Carolina [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. BASS], the Senator from Indiana [Mr. BAYH], the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], and the Senator from Utah [Mr. MOSS] would each vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT] is absent on official business, and his pair has been previously announced.

The Senator from Hawaii [Mr. FONG], the Senator from California [Mr. KUCHEL], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

On this vote, the Senator from Hawaii [Mr. FONG] is paired with the Senator from Wyoming [Mr. SIMPSON]. If present and voting, the Senator from Hawaii would vote "nay" and the Senator from Wyoming would vote "yea."

The result was announced—yeas 32, nays 53, as follows:

[No. 89 Leg.]

YEAS—32

Bennett
Boggs
Carlson
Cooper
Cotton
Curtis
Dirksen
Dominick
Eastland
Ervin
Fannin

Griffin
Hickenlooper
Hollander
Hruska
Jordan, N.C.
Jordan, Idaho
Lausche
Miller
Morton
Mundt
Murphy

Pearson
Prouty
Saltonstall
Scott
Stennis
Talmadge
Thurmond
Tower
Williams, Del.
Young, N. Dak.

NAYS—53

Aiken
Anderson
Bartlett
Bible
Brewster
Burdick
Byrd, Va.
Byrd, W. Va.
Cannon
Case
Church
Clark
Dodd
Douglas
Ellender
Fulbright
Gore
Harris

Hart
Hartke
Hill
Inouye
Jackson
Javits
Kennedy, Mass.
Long, Mo.
Long, La.
Magnuson
McCarthy
McGee
McGovern
McIntyre
Metcalf
Mondale
Monroney
Morse

Muskie
Nelson
Neuberger
Pastore
Pell
Proxmire
Randolph
Ribicoff
Robertson
Russell, Ga.
Smathers
Smith
Sparkman
Symington
Williams, N.J.
Yarborough
Young, Ohio

NOT VOTING—15

Allott
Bass
Bayh
Fong
Gruening

Hayden
Kennedy, N.Y.
Kuchel
Mansfield
McClellan

Montoya
Moss
Russell, S.C.
Simpson
Tydings

So Mr. COTTON's amendment was rejected.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, the Senator from Ohio [Mr. LAUSCHE] has an amendment which he presented 2 minutes ago. It was technically out of order because we were discussing the Cotton amendment under the unanimous-consent agreement.

If the Senator from Ohio [Mr. LAUSCHE] would present his amendment now, the committee could accept the amendment.

Mr. LAUSCHE. Mr. President, I ask unanimous consent that the amendment be stated.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The amendment will be stated.

The legislative clerk read as follows:

Beginning with line 1, page 20, strike out all to and including line 7, page 20, and insert in lieu thereof the following:

"(4) require that information with respect to the ingredients and composition of any consumer commodity be placed upon packages containing that commodity, except that (A) each such regulation shall be consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended, (B) no such regulation shall apply to any consumer commodity for which a definition or standard of identity has been established and is in effect pursuant to a regulation promulgated under that Act, and (C) no such regulation promulgated under this paragraph may require the disclosure of information concerning proprietary trade secrets."

Mr. LAUSCHE. Mr. President, the essence of my amendment is that the Administrator of the program embodied in the bill pending before the Senate shall be obliged to accept the definitions that are now in existence, as promulgated by the Pure Food and Drug Administrator. That means that definitions such as ice cream, promulgated by the Administrator of the Pure Food and Drug Act, describing what the contents of ice cream shall be, shall be controlling upon the Administrator of the program embodied in the bill.

It would apply to all other definitions that are now in existence, as issued by the Pure Food and Drug Administration.

Mr. MAGNUSON. Mr. President, the pending bill is not intended to disturb these criteria that have been set up. I believe that the language would clarify the matter. The criteria for dairy products would be so far beyond and above what might happen in the pending bill that it would not be disturbed in any way, and might clarify it.

If other Senators who are members of the committee have no objection, I would be glad to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Ohio [Mr. LAUSCHE].

The amendment was agreed to.

Mr. MONRONEY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 24, line 15, before the period, insert: "or the orderly disposal of packages in inventory or with the trade as of the effective date of the regulation."

Mr. MONRONEY. Mr. President, I have discussed my amendment with the distinguished chairman of the committee and the author of the bill [Mr. HART].

My proposed amendment would write into S. 985 a limited measure of protection for distributors and retailers of consumer commodities and will put into the law what I believe is the actual intent of the committee.

On page 5 of the committee report it is stated that—

No regulation under the mandatory or discretionary sections of the bill should take effect until the manufacturers involved have had full opportunity to effect any necessary packaging or labeling changes, and to allow reasonable time for the disposal of existing stocks and inventories.

It is not absolutely clear that the distributors and retailers would be afforded protection and there is nothing in the bill itself to cover this contingency.

My amendment would apply only to those packages with respect to which regulations have been promulgated and would permit distributors and retailers to dispose of packages which were in inventory or with the trade prior to the effective date of the regulation.

The language is needed in the bill itself, because I understand that the Food

and Drug Administration declared that it could not issue a regulation exempting merchandise on distributors' and retailers' shelves covered by the hazardous substances law, because there was no specific statutory authority permitting it to do so.

I do not believe the administration has any objection to my amendment. It would clarify what I believe the committee intended and would provide protection for distributors and retailers that will certainly be needed, considering the millions of dollars worth of merchandise which will be covered by this bill.

There is bound to be a great deal of merchandise in the pipelines at the time of promulgation.

I hope that the chairman will accept the amendment.

Mr. President, I ask unanimous consent that the Senator from Pennsylvania [Mr. Scott] be added as a cosponsor of the amendment.

Mr. SCOTT. Mr. President, the Senator from Oklahoma has asked unanimous consent that I be added as a cosponsor of the amendment.

I have discussed the amendment with the Senator from Oklahoma, and I support the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. I shall be glad to accept the amendment. I do not think it is needed. We assume that the Secretary's order would not affect products that are in the pipeline. We intended that.

Mr. President, I wish to insert in the RECORD following my remarks the material that appears in the first paragraph on page 5 of the report.

It is, of course, intended that no regulation under the mandatory or discretionary sections of the bill should take effect until the manufacturers involved have had full opportunity to effect any necessary packaging or labeling changes, and to allow reasonable time for the disposal of existing stocks and inventories.

I thank the Senator from Oklahoma. The amendment would clarify the matter. If the committee has no objection, I shall be glad to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oklahoma [Mr. MONROE].

The amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, I wish to announce my support for Senate bill 985, the truth-in-packaging bill.

I have just returned from my State of West Virginia, and, in talks with my people, I find great concern with the rising prices of food. The men and women who have retired and are living on social security benefits and others who are living on fixed incomes are finding it more difficult to purchase their food within their incomes.

Although this bill is not designed to roll back the cost of food, I must agree with Mrs. Esther Peterson, Assistant Secretary for Labor Standards, that it will greatly assist the shopper in selecting better bargains. The provisions of this measure will clarify the size, quality, and

cost of products. This, alone, will be of service to the shopper.

The bill has the interest of the shopper at heart, and it will provide her with information that will help her to get the most for a shopping dollar. It will help to make comparisons without forcing the shopper to be a walking digital computer.

HOW MUCH IS THAT PRETTY RED CATSUP?

Mr. KENNEDY of Massachusetts. Mr. President, I for one—and no doubt I speak for the majority of my colleagues—am almost awed by the ability of American women when it comes to discovering bargains on shopping trips.

They seem to possess the best qualities of a computer, bird dog, statistician, home economist, quality analyst, and the proverbial budget-conscious Scotsman.

Therefore, when I am confronted with an academic study which proves that these indomitable shoppers are unable to find the best buys in our supermarkets I am dumbfounded.

Recently I spent some time pondering a heady study done by Monroe Peter Friedman of Eastern Michigan University. Wading through the algebraic formulas, quotients and confusion ratios, I realized that our American women are so handicapped in the supermarket today.

The only conclusion I can come up with is that there is something wrong with the system.

In the study, 33 college-educated women were given a list of 20 common items to buy at a supermarket. They were asked to perform one seemingly simple task: To buy the most economical package of each of the 20 products, that is, to get the largest quantity for the lowest price.

Of the 660 buying decisions these women made, 43 percent were wrong. On the average, the women spent 11 cents more out of each shopping dollar than they needed to. If this extra expenditure were extended over the course of a year, it would mean that the budgets of these women would be increased 9 percent.

Certainly, this does not sound like the women shoppers I know—especially like

one I know very well. But the study has the facts down in black and white.

Several of the product areas where the women did most poorly are worth noting.

For example, only one chose the most economical laundry bleach. None chose the correct detergent. Three selected the correct paper towels. And at least 20 of them failed to make the right choice in potato chips, cola, toilet tissue and toothpaste.

This rather unimpressive record of achievement was accomplished even though the shoppers were allowed three times as much time for each decision as the average woman spends.

And why all the trouble?

Because the shoppers did not have the information truth in packaging would assure them.

Mr. Friedman also noted that his college-educated study group should be the least disadvantaged of American women shoppers. Indeed, this is a valid conclusion and a reason for us to react most favorably to the truth in packaging bill.

If our most educationally privileged consumers all within an age bracket where eyesight and stamina are best run into such problems with supermarket packages today, what is happening to the ones without these advantages?

How, then are our poorly educated and our senior citizens doing?

Obviously we must conclude they are doing worse. And unfortunately they are exactly the ones who can ill afford to lose the pennies and dollars these mistakes add up to.

Mr. President, I ask unanimous consent that the tabulation of the results of the Eastern Michigan University study be inserted at this point in the RECORD. It lists the 20 products purchased, the number of shoppers making errors in each product, the magnitude of the error as a percentage of the unit price of the most economical package and the total number of dollars involved, per package and over a year.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

Confusion values and estimated consumer expenditures for 20 supermarket products

Product	Confusion ¹ measure 1 (total errors)	Confusion measure 2 (percentage error)	Confusion ² measure 3 (weighted error)	Estimated annual ² consumer expenditures
Canned peaches.....	8.0	2.0	\$0.06	\$3.10
Canned peas.....	5.0	5.0	.20	4.10
Catsup.....	23.0	13.0	.28	2.40
Evaporated milk.....	2.0	0.0	0	6.60
Family flour.....	6.0	2.0	.13	6.70
Frozen orange juice.....	6.0	6.0	.36	6.40
Granulated sugar.....	0.0	0.0	0	10.70
Instant coffee.....	11.0	10.0	.92	10.10
Liquid bleach.....	32.0	32.0	.70	2.90
Liquid detergent.....	8.0	4.0	.24	6.20
Liquid shampoo.....	14.0	63.0	1.01	2.70
Mayonnaise.....	8.0	16.0	.46	3.30
Paper towels.....	30.0	12.0	.48	4.50
Peanut butter.....	7.0	2.0	.06	3.20
Potato chips.....	22.0	1.0	.05	5.30
Powdered detergent.....	33.0	24.0	2.13	11.00
Soft drinks (cola).....	27.0	17.0	2.01	13.80
Solid shortening.....	0.0	0.0	0	5.50
Toilet tissue.....	22.0	5.0	.37	7.70
Toothpaste.....	22.0	16.0	.69	5.00
Sum.....			10.15	121.20
Mean.....	14.3	11.5	.507	6.06

¹ N-33.

² Based on a total annual supermarket expenditure of \$1,000.

CLEVER IS NOT ENOUGH

Mr. NELSON. Mr. President, those who criticize the truth in packaging bill on the basis that it is unneeded by the clever American woman who shops our supermarkets should spend a little time studying a study done in California.

The survey was done by the consumer counsel to the Governor of California, Mrs. Helen Nelson. She reported on it during Senate hearings on this bill.

Five housewives—three of them college graduates and two with 2 years of college—were recruited to go to a supermarket and attempt to make the most economical buy of 14 products on a shopping list.

The women spent varying lengths of time—all considerably more than the average consumer has available—ranging from 25 to 60 minutes. A DePont survey reports that the average shopper buys 13.7 products on each trip to the store and spends 27 minutes—including checkout time. From the comparison of these figures, I would surmise that many of our American women long ago gave up in frustration the hopes of ever deciding the less expensive of the products on their list.

And well they might. For, consider how the survey shoppers did.

With only 1 of the 14 products did all five shoppers succeed in identifying the lowest cost item. That product was Cheddar cheese—in random weight packages but priced by the pound.

In no other case did all succeed.

With 2 of the 14 products—rice and toilet soap—every shopper was baffled. Two could not find the least expensive can of solid-pack tomatoes.

In total, they succeeded 36 times and failed 34. They spent an average of 45 minutes in the effort—not counting checkout time—over 50 percent more than the average shopper.

None of the shoppers made a lucky guess in toilet soap—partly because, of course, present law does not require quantity designations on soaps. Of the 25 different toilet soaps in that store only 5 carried a weight designation.

Why did they have so much trouble with rice—a staple in most households? Of the 14 choices available, not one was a pound package.

One might ask—based on the assumption that competing products generally fall into the same price range—why such careful scrutiny of prices would be necessary, or even desirable.

The California survey answers well why a housewife who feels a need to watch the budget would go through just such calculations:

For example, in the supermarket that day there were six possible choices of salt. The price range was 5 cents to \$1.46 a pound—but, of course, none of the six were packaged in pound units.

The price spread for pancake mix was 400 percent—from 12.8 to 47 cents per pound.

The major problem for the survey shoppers, of course, was that so few of the packages came in half-pound, or pound units—not even staples such as rice.

This is due—at least in some part—because manufacturers believe in “packaging to price.” Therefore, they will take out a half-ounce or ounce or three ounces rather than raise the price. Such changes, of course, demand new packaging. And who pays for these new packages which look as if they contain as much as the old but do not? The consumer.

Mr. President, all the truth in packaging bill would do is require that these packages—for which the consumer is paying—serve to tell that consumer how much of what she is buying.

It sounds like a reasonable request to me—and a reasonable bill.

Mr. President, I ask unanimous consent that the results of the California survey be inserted at this point in the RECORD.

There being no objection, survey was ordered to be printed in the RECORD, as follows:

Product	Number succeeding	Number failing
Rice.....	0	5
Canned solid-pack tomatoes.....	3	2
Hot cereal.....	4	1
Cheddar cheese.....	5	0
Tuna.....	2	3
Salt.....	2	3
Imitation maple syrup.....	3	2
Pancake mix.....	3	2
Peanut butter.....	3	2
Liquid detergent for dishwashing.....	3	2
Liquid shampoo.....	1	4
Toilet soap.....	0	5
Toilet tissue.....	4	1
Canned dogfood.....	3	2
Total.....	36	34

CONSUMERS BENEFIT FROM FAIR PACKAGING

Mr. BARTLETT. Mr. President, it is seldom that we have introduced in Congress bills that have such widespread benefits as S. 985, the Fair Packaging and Labeling Act. Every American consumer stands to gain immeasurably with passage of this act, and I feel privileged to have been a cosponsor. The distinguished senior Senator from Michigan deserves great credit, not only for his introduction of this bill but for his persistent and effective campaigning for its passage.

For many years, the American housewife has been a confused and perplexed buyer—not, Heaven knows, because of any inability or inadequacy on her part, but because she could just not keep up with the mental arithmetic needed to do the fine job of comparison buying for which she and all Americans take pride.

Yankee ingenuity is a term of endearment to most of us. It is an aspect of Americanism we cherish, and it should apply to the customer's skill in finding a bargain just as much as to the manufacturer's skill in making the item at a lower cost. It does not imply any license to take advantage of buyers through contrived deception—and protection of the entire public from such practices is the simple and basic essence of the Fair Packaging and Labeling Act.

The bill is intended to accomplish two things—to inform consumers adequately of the quantity and composition of pack-

aged commodities, and to promote packaging practices that will provide consumers a better basis for comparing prices of competitive products. These objectives would be achieved by requiring that package labels bear direct, easily understood information concerning the manufacturer, the ingredients and the net quantity of the contents in standardized units without misleading words. When circumstances prove it necessary, the bill also authorizes the government to prescribe the exact meanings for often used, vague words such as “small,” “medium,” “large” and “individual serving” and to require manufacturers to distribute and market their products in standardized, reasonable weights or quantities so as to prevent flooding the marketplace with a senseless and confusing number of choices.

Opposition to this bill has stemmed largely from businesses with varying packaging and net quantity requirements, and it is to the credit of the members of the Commerce Committee and many other concerned members that all such considerations were carefully reviewed. The bill, as reported, goes far to meet the objections of the manufacturers, yet still protects the interests of the American consumer.

The Senate Commerce Committee held 10 days of hearings on S. 985 and, in addition, reviewed five volumes of testimony taken over the previous 5 years on this broad subject. The committee held seven executive session to weigh the many facts and wrote and rewrote the bill many times to insure that, in language and intent, this final bill will not unduly hamper innovation or progress in the many industries concerned.

I believe we have produced in this legislation minimum interference of American business consistent with the high purposes of protecting the American public. I am proud to have contributed to it.

I urge all Members to support S. 985.

EVERYONE IS PROTECTED

Mr. MONDALE. Mr. President, in order to allay the fears of some Members of the Senate that S. 985 would create a situation where a runaway administrative agency would be in a position to subjugate the rights of citizens, I should like to explain the procedural safeguards which the bill contains. The regulatory responsibility for promulgating regulations under this act is divided between the Secretary of Health, Education, and Welfare and the Federal Trade Commission. The Department of Health, Education, and Welfare would have jurisdiction over the packaging and labeling of all consumer commodities which are foods, drugs, devices, or cosmetics within the scope of the Federal Food, Drug, and Cosmetic Act. The Federal Trade Commission would have jurisdiction over all other consumer commodities.

If the promulgating authority has reason to believe that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price-per-unit com-

parisons, this authority must, under section 5(d) of the bill, conduct a hearing in compliance with section 7 of the Administrative Procedure Act in order to make such a determination. Section 7 of the Administrative Procedure Act sets out the rules governing such hearings. It provides that a presiding officer shall sit with authority to administer oaths, issue subpoenas, rule upon offers of proof and receive evidence, regulate the course of hearings, make decisions or recommend decisions, and take any other action authorized by agency rule. This section further provides that the proponent of a regulation shall have the burden of proof. It provides that every party shall have the right to present his case or defense by oral or documentary evidence and to conduct cross-examinations. Certainly this procedure affords every right and opportunity to one whose practices are being challenged, but this is only the start as far as the promulgating authority is concerned. If as a result of this hearing the promulgating authority decides to promulgate regulations, it must publish such determination in the Federal Register. Within 60 days after the publication, any producer or distributor affected may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity.

Once this request is made, members of a Standard Review Committee have 12 months in which to propose a standard. A 6-month extension would be permitted if the Secretary of Commerce believes that a standard will be published within a reasonable time. If no voluntary standard is reached, the promulgating authority then may promulgate regulations pursuant to and subject to judicial review under the provisions of subsections (e), (f), and (g) to section 701 of the Federal Food, Drug, and Cosmetic Act. These sections provide for the authority to promulgate regulations.

Section (e) provides that any action for the issuance of any regulation shall be begun by a proposal made by the Secretary or any interested party. The Secretary then shall, by order, act upon such proposal and shall make such order public. This order shall become effective at such time as the Secretary specifies but not prior to such time as is allowed for objections. Section (e) (2) provides that any person who will be adversely affected by such order may file an objection on or before the 30th day after the date on which the order was entered. Further, that such objection shall operate to stay the effectiveness of those provisions of the order to which the objections are made. The Secretary thereupon, after the time for filing objections has expired, shall publish a notice in the Federal Register, specifying those parts of the order which have been stayed and if no objections have been filed, state that fact.

Section (e) (3) provides for the holding of public hearings. It provides that any interested person may be heard in person or by representative and that, after the hearings, the Secretary shall, by order, act upon such objections and make such order public.

Section (f) provides for the filing of a petition with the circuit court of appeals by any person who will be adversely affected by the Secretary's order. This section also provides for hearings and gives jurisdiction to the court to affirm or to set aside the order.

Section (g) provides for the furnishing of copies of the transcript to any interested party and further provides that such transcript shall be admissible in certain other proceedings.

Under these procedures, then, a party has the right to two administrative hearings in which he can present evidence and cross-examine, and so forth. He can avail himself of the voluntary proceedings of the Department of Commerce. Finally, any regulations promulgated are subject to judicial review by the circuit court of appeals.

It seems to me that the rights of parties are adequately protected by this proposal. I submit that many industries will wish to avail themselves of the voluntary standards section of the bill. Certainly if industry disagrees with any proposed regulations which the Federal Trade Commission or the Department of Health, Education, and Welfare contemplates, it will have ample opportunity to make these objections known by judicial procedures. Certainly no arbitrary regulations will be issued under the bill.

PRESENT LAW IS NOT ADEQUATE

Mr. DOUGLAS. Mr. President, it has been suggested that S. 985 is not needed because present law is adequate. Nothing could be further from the truth. It is clear that both the Food and Drug Administration and the Federal Trade Commission are empowered to move against commercial practices that are of a false and misleading nature. But it must be shown by a preponderance of evidence that the practice is likely to deceive the purchasing public.

The Fair Packaging and Labeling Act, on the other hand, is aimed not so much at practices that are false and misleading—although admittedly certain false and misleading practices are covered by the bill—but at practices which deny the consumer the opportunity to make a rational determination as to the actual cost of varying sizes of packages, and the amount contained within the package.

As an example, section 4(a) (2) of the bill requiring that the net quantity of contents shall be separately and accurately stated in a uniform location upon the principal display panel, is aimed at correcting a practice that could not be reached under present law. If there was a deliberate misstatement of the net quantity which was untrue, then such a practice could be reached under present statute.

However, if the statement was correct but not prominent because it blended in with the color of the package, then the burden of proving that this was false or misleading or deceived the purchasing public would indeed be a tremendous one to carry. This is of little comfort to the consumer, however, who cannot find the net contents on the package. The same may be said in regard to the other mandatory requirements which deal with the readability of the content statement.

Neither can present law prohibit the qualifying words or phrases by which the consumer could be led to believe that he is getting more than is actually in the package.

Those portions of the bill dealing with the necessity of stating net quantity in ounces or in whole units of pounds, pints, quarts and the authority to standardize packages, are aimed at the elimination of proliferation of weights. Under the present situation, the consumer just cannot intelligently determine what size is the best buy for the money. But this practice is probably not false and misleading and therefore not covered by present law.

It is admitted that certain practices covered by S. 985 could probably be attacked on an individual basis under present statutes. But many of these practices are so widespread as to render the task of a case-by-case attack extremely difficult, if not impossible.

Under present statute, the Commission could hold a trade practice conference and promulgate rules thereunder in cooperation with industry. But adherence to the rules would be voluntary and not mandatory. Under S. 985 the regulations promulgated by the Federal Trade Commission or Health, Education, and Welfare would be mandatory and have the effect of law. A violation of this regulation would be a violation of law.

Representatives of both the Food and Drug Administration and the Federal Trade Commission have offered testimony to the effect that they cannot cope with these problems under present law. One has only to look on the supermarket shelves to see that indeed the problem is not being met. Congress cannot shirk from its responsibility to see that the consumer has the benefits of this bill.

INTERNAL REVENUE SERVICE RULINGS

Mr. GORE. Mr. President, for some time I have been interested in Internal Revenue Service rulings. Due to the rather complicated nature of our tax laws, containing as they do many exceptions to the general rule that all income is subject to tax, it is impracticable if not impossible to legislate in the detail which would be required to cover all possible cases. Rulings, then, become important—sometimes as important in practical effect as the law itself.

It has long been my view that publicity and public disclosure would go far toward eliminating favoritism in rulings and in seeing to it that rulings do not stray from the intent of the Congress in enacting a given statute. For this reason I have introduced a bill, S. 2047, which would require the publication of all IRS rulings involving large revenues. My interest was prompted somewhat, although not altogether, by the rather mysterious negotiations which preceded the modifications made in the rulings governing the Du Pont-General Motors divestiture.

But, important as it is to maintain integrity and equity in rulings affecting a limited number of taxpayers involved in a given transaction, it is perhaps more important to see to it that correct rul-

Mr. WILLIAMS of Delaware. I shall take whatever time I believe is necessary to do the job.

Mr. MAGNUSON. Very well.

Mr. WILLIAMS of Delaware. I am not going to try to delay the matter, but I am not going to be under any restricted time, either.

The Senator from Iowa mentioned the fact that last week I offered a resolution requesting the Agriculture Committee to investigate a leak which developed in connection with an announcement made by the President concerning the soybean program. The President has recognized that a leak occurred, and according to the press he has asked the Inspector General to investigate the matter.

The Agriculture Committee should also investigate the matter, because leaks such as this affect markets and hurt the American farmers.

Since offering the resolution, however, I have found out substantially what happened.

In the past, when the Department of Agriculture has been about to make a major announcement affecting prices, the custom always has been to make such an announcement after the market closes and before it opens in the morning.

In this instance, the President felt that this announcement would be favorable to the farmer, and so he issued instructions that instead of the announcement being made that night it be held over until his next press conference, which was scheduled for the next day at noon, so that he could make this politically popular announcement himself.

I understand that in order to obtain broad coverage of this announcement, a mimeographed statement was prepared for the press, and it was marked "not to be released before 12 o'clock."

With this background they do not have to do a great deal of investigating to find out who leaked this premature announcement.

Announcements affecting markets should be made by the Departments involved after the market closes and not held over for the President's press conference. All announcements should be made by the agency involved as soon as the determination is made and before the market is opened in the morning.

So long as these announcements are held up, as in this instance, to give the President an opportunity to make a grandstand speech, the next day markets will be affected.

Although we know how the leak developed in this instance, we should now learn who made the extra money as a result of knowing in advance that the favorable announcement was to be made.

Someone with this inside knowledge could have made a fortune.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. MURPHY. Has it not been the custom to release these notices after the close of business that day, in order to prevent the possibility of anyone trading in futures in the commodities affected?

Mr. WILLIAMS of Delaware. Not only that has been the custom, but also the men in the Department who worked on the compilation of the statistics from which the decision would be made would go into a room on a certain day to compile and analyze these statistics. They would be locked in the room and would not be allowed to leave until the market had closed. They would then hand their decision to the Secretary, and it would be immediately released to the press. The announcement would be made so that all American citizens would have it before the markets opened the next day, and no one would have an opportunity to cash in on inside information.

In this instance the decision had to be sent to Pennsylvania Avenue so that by announcing it the President could receive credit. I now give him the credit for announcing it, but I also give him the credit for the leak.

FAIR PACKAGING AND LABELING ACT

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. COTTON. Will the Senator yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. COTTON. It is for the purpose of asking unanimous consent.

Mr. WILLIAMS of Delaware. Yes.

Mr. COTTON. Mr. President, in order that there may be an amendment pending on the packaging bill, is it in order to ask unanimous consent to present an amendment to be pending without the consideration of the conference report?

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator may do so, with unanimous consent of the Senate.

Mr. COTTON. I ask unanimous consent to be permitted to call up and have pending the amendment offered by the Senator from Kentucky [Mr. MORTON] No. 576.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

Mr. COTTON. It is a fairly long amendment, and I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is on page 25, between lines 16 and 17, insert the following new section:

SEC. 8. In order to prevent certain unfair practices that deprive manufacturers and retailers of the protection they should enjoy on the basis of fair competition and to protect consumers by guaranteeing fair prices and quality goods and to assist consumers in making price comparisons, and for other purposes, section 5(a) of the Federal Trade Commission Act, as amended, is further amended by adding at the end thereof the following new paragraphs:

"(7) The owner of a brand, name, or trade-

mark shall be deemed to retain his property rights therein, and in the trade and public good will symbolized thereby, regardless of any sale or transfer of the goods to which such brand, name, or trademark relates, and no such sale or transfer shall be deemed to diminish or extinguish any such rights.

"(8) Any person who resells goods identified by a distinguishing brand, name, or trademark, either on the label, container, or dispenser thereof, may rightfully employ such brand, name, or trademark, but only in effecting the resale of such goods and subject to the following provisions of this paragraph. If goods usable for the same general purpose are available to the public from sources other than the owner of such brand, name, or trademark, and are in free and open competition therewith, the right of any person to employ such brand, name, or trademark in effecting resale of goods so identified may be revoked for a period not exceeding one year by the owner of such brand, name, or trademark, subject to the provisions of paragraph (10) of this subsection, on written and dated notice of revocation, if, within ninety days prior to the date of the written notice of revocation—

"(A) such person has employed goods bearing such brand, name, or trademark in furtherance of bait merchandising practices;

"(B) such person, after written notice given by such owner of such owner's currently established resale price or price range, has advertised, offered for sale, or sold any such goods, acquired by such person after he has been given such notice, at a price other than such currently established resale price or at a price not within such currently established resale price range; or

"(C) such person, with intent to deceive purchasers, has published a misrepresentation or misrepresentations concerning such goods.

The owner of a brand, name, or trademark who avails himself of the provisions of paragraphs (7) to (17) of this subsection for the purpose of establishing a resale price or price range shall thereby subject himself, without respect to the amount in controversy, to the jurisdiction of the district court, of the United States for any district in which goods identified by such brand, name, or trademark are offered for sale, but such jurisdiction shall apply (i) only for the adjudication of issues involving the goods covered by such paragraphs (7) to (17), and (ii) only if the owner of such brand, name, or trademark is not subject to process in the courts of the State in which such purchaser acquired such goods.

"(9) Notwithstanding revocation pursuant to paragraph (8) of this subsection of the right of a person, in reselling goods, to employ the brand, name, or trademark which identifies such goods—

"(A) such person may, in the regular course of his business and within a reasonable time after the date of such revocation, sell all such goods of which, on such date, he is possessed: *Provided*, That in such sale he shall commit none of the acts described in subparagraphs (A), (B), and (C) of such paragraph (8); or

"(B) if such person, promptly upon such revocation, shall have supplied to the owner of such brand, name, or trademark a correct itemized listing of the inventory of such goods with a statement of the price paid per item and the total price (including transportation costs) paid therefor, together with a firm offer to sell and deliver all such inventory to such owner at any time within ten days thereafter upon payment of such total price plus the cost of transportation to the owner in the manner directed by such owner, then such person, upon expiration of the ten-day term of such offer without

acceptance may so sell such goods in such inventory, in the regular course of his business and within a reasonable time thereafter, without restriction as to price, in which event each advertisement of, or offer to sell, such goods, shall state plainly that the right of the reseller, offering such goods, to employ in any way the brand, name, or trademark carried by the goods has been revoked as to any such goods not in that reseller's possession at the time of such revocation.

"(10) Any person whose right to employ a brand, name, or trademark has been revoked by the owner thereof pursuant to the provisions of paragraph (8) of this subsection, and who thereafter, except as authorized by paragraph (9) of this subsection, resells goods identified by such brand, name, or trademark, or who otherwise employs such brand, name, or trademark in effecting resale of such goods or any other goods, shall be liable in a civil action for damages and injunctive relief by the owner of the brand, name, or trademark, to prevent and restrain further violations of paragraphs (7) to (17), inclusive, of this subsection. Such owner may sue in any district court of the United States in the district in which defendant resides or does business or in which the alleged violation occurred, without respect to the amount in controversy, and shall be entitled to (i) recover the amount of any damages sustained, (ii) injunctive relief to prevent and restrain further violations of paragraphs (7) to (17), inclusive, of this subsection, whether or not specific money damages are established, and (iii) recover the cost of suit. Any injunction granted under clause (ii) of this paragraph shall remain in effect for not more than one year from the date it is granted unless it is the second or a subsequent such injunction issued against the same defendant in favor of the same plaintiff in which case it may be a permanent injunction; except that any such injunction, upon petition of such plaintiff, may be vacated unconditionally by the court granting it.

"(11) In any proceeding under paragraph (10) it shall be a defense for the defendant (A) to establish that the plaintiff has not used due diligence to effectuate observance or enforcement of plaintiff's rights under paragraphs (7) to (17), inclusive, of this subsection against other persons who are in substantial competition with the defendant and who are known to plaintiff to be violating the same subparagraph of paragraphs (8) of this subsection on which revocation of the defendant's right to employ the brand, name, or trademark was based or (B) to establish that the plaintiff has sold the same kind of goods of like grade and quality as the goods involved in such proceeding to another person similarly situated under terms more favorable or at lower prices than those under which the plaintiff offered such goods for sale to the defendant.

"(12) No action pursuant hereto shall preclude remedial action otherwise available for wrongful use of a brand, name, or trademark.

"(13) Paragraphs (7) to (17), inclusive, of this subsection shall apply to all acts and transactions of the character referred to therein, in or affecting commerce, which Congress may lawfully regulate, but where the owner of a brand, name, or trademark avails himself of any right or remedy provided in paragraphs (7) to (17), inclusive, of this subsection, such action shall not cause any act or transaction not otherwise in, affecting, or related to, commerce to be an activity or transaction in, affecting, or related to, commerce. If any State, by any provision of its constitution adopted, or by any law enacted, after this paragraph takes effect, prohibits resale price maintenance in such State through the exercise of paragraphs (7) to (17), inclusive, of this subsection, then, while such provision or law is in effect, such paragraphs shall not authorize the estab-

lishment or enforcement of any resale price or resale price range with respect to any resale in such State of any goods if such goods so resold are to be delivered from a place in such State to a purchaser in such State and are not to be resold again for delivery to a purchaser outside of such State.

"(14) As used in paragraphs (7) to (17), inclusive, of this subsection—

"(A) The term 'person' means any individual, partnership, association, or corporation.

"(B) The term 'goods' means goods, wares, and merchandise.

"(C) The term 'currently established resale price' means the price for goods identified by a brand, name, or trademark specified by written notice invoking paragraphs (7) to (17), inclusive, of this subsection given by the owner of such brand, name, or trademark to the person reselling such goods.

"(D) The term 'currently established resale price range' means all prices including and between the minimum and maximum resale prices for goods identified by a brand, name, or trademark, specified by written notice invoking paragraphs (7) to (17), inclusive, of this subsection given by the owners of such brand, name, or trademark to the person reselling such goods.

Each such currently established resale price and resale price range shall be uniform at each level of distribution, except for reasonable marketing costs. Such owner of the brand, name, or trademark may so establish, for resale of a combination of two or more items of goods, a resale price or price range different from the sum of the currently established resale price or price ranges for the items when sold individually. Such owner of the brand, name, or trademark may also engage in other promotional activities not made unlawful by any other statute.

"(15) All rights and remedies provided in paragraphs (7) to (17), inclusive, of this subsection, to owners of a brand, name, or trademark, shall be also available to any owner of a brand, name, or trademark who, in the sale of goods identified by such brand, name, trademark, shall compete, at any level of distribution, with any reseller offering such goods: *Provided*, That such owner shall sell such identified goods, at whatever level of distribution, only at the price or within the price range currently established by such owner for that level of distribution.

"(16) The following transactions shall be exempt from paragraphs (7) to (15), inclusive, of this subsection—

"(A) Sales of bulk commodities when sold without wrappers or containers.

"(B) Sales by any officer acting under the orders or authority of any duly constituted court; or sales by any person in mitigation of damages or enforcement of a lien or other secured interest in said goods, when such person is not primarily engaged in the distribution of goods for resale.

"(C) Sales of damaged, deteriorated, defaced, or secondhand goods, when plain notice of the condition of the goods is given to the public.

"(D) Sales of drugs, medicines, and devices for which either Federal or State law or regulations requires a prescription from a physician, dentist, or such other persons as the various States may authorize to prescribe such items.

"(E) Sales to or by the Federal, State, or municipal governments or their political subdivisions or agencies.

"(F) Sales to charitable, educational, medical, and religious organizations, for their own use and not for resale.

"(17) If any provision of paragraphs (7) to (17), inclusive, of this subsection or the application of any such provision to any person or circumstance shall be held invalid for

any reason it is the intention of the Congress that the remaining provisions thereof shall not be affected but shall remain in full force and effect."

Mr. MAGNUSON. Mr. President, if the Senator from Delaware will allow me, I ask unanimous consent—

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. WILLIAMS of Delaware. I yield.

Mr. MAGNUSON. I ask unanimous consent for the yeas and nays on final passage of the Fair Packaging and Labeling Act.

The yeas and nays were ordered.

TO PERMIT THE PLANTING OF ALTERNATE CROPS—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 15151) to permit the planting of alternate crops on acreage which is unplanted because of a natural disaster.

Mr. WILLIAMS of Delaware. Mr. President, it would be well to outline what the bill before us seeks to accomplish and then what the amendment which I added to the bill would accomplish.

Under existing law if the farmers—we speak first of cotton farmers—plant their crops and the crops are destroyed by an act of nature because of drought or because of extremely wet weather—they can collect payments from the Federal Government of 9 to 10 cents a pound for their average yield of cotton. This amounts to approximately \$50 per bale of cotton. Assuming a 1-bale acreage yield they can collect \$50 per acre. If it is a 2-bale acreage yield they can collect \$100. As the Senator from New Mexico pointed out the other day, with a 4-bale yield in his area they can collect as much as \$200 per acre. In addition, after this crop loss they can then plant soybeans. That is the existing law, and this situation is not affected at all by the rejection or acceptance of the proposed bill or the proposed amendment.

A second provision of the existing law concerns the farmer who has a cotton allotment and who was going to plant cotton but it rained or was too dry, and he did not plant his cotton. That man under existing law can still collect as much as \$50 per bale for every bale produced, which averages from \$50 to \$100 and sometimes goes up to \$200 per acre, but he cannot plant an income-producing crop on this acreage. The payment he receives under existing law is for a crop which he has never planted. Remember this farmer has had no cost whatsoever for seed, fertilizer, or labor.

The pending bill provides that this same individual, who has not planted his crop and who because of an act of nature found conditions were not suitable for the crop to be planted, could still collect the payments as provided under existing law—that is, \$50 per bale for the previous production and in addition be allowed to plant soybeans on this same acreage. The bill as originally reported gives him a right, in addition to collecting these

of land that has not been plowed, planted, or cultivated and on which he has not spent one dime, for him to receive from the Federal Government a \$200,000 check and told, "You take that money and grow a crop of soybeans on your land, and we will give you \$2.50 per bushel support on all the beans you produce" must think that he has received a windfall—unless in the past his payments have been so large that he does not even look upon them as windfalls any more.

Mr. MILLER. Let me add this to what the Senator has said. The Senator has referred to the very few farmers who would be affected by this \$10,000 limitation. I think most of us are sympathetic with those who are hurt the most by any disaster, those who do not have any particular capital and who have nothing to fall back on. That was the rationale behind this \$10,000 limitation, something like insurance in a way, say, that we are going to cover this with a ceiling.

If they want to have more than \$10,000 insurance, they will have to go elsewhere, but not come to the Federal Government for it.

As a result of the action taken by the conferees, we now have an open-end proposition which allows public misinformation that many farmers, rather than a few, are getting windfalls.

Mr. WILLIAMS of Delaware. Unless this boondoggle giveaway is stopped the agricultural program is going to sink because the American public will repudiate it. This bill is supposed to be an emergency bill. There are 762,257 cotton farmers in America according to the latest estimates I have received. Out of that total of 762,257 in the whole Nation only 10,470 are affected by this amendment containing the \$10,000 ceiling. But with respect to this \$10,000 limitation the opponents say that if we cannot take care of the big ones, let the little ones go broke.

Mr. MILLER. The Senator from Delaware pointed out the drop in the soybean commodity market on the day of the announcement by the Secretary of Agriculture that if Congress passed this bill the Secretary would recommend a veto. Did I understand the Senator correctly?

Mr. WILLIAMS of Delaware. The market dropped 7 cents since the Secretary made his announcement. It may have risen today I do not know.

Mr. MILLER. Since the Secretary made his announcement?

Mr. WILLIAMS of Delaware. Yes.

Mr. MILLER. Does the Senator know whether the market dropped the day of the announcement?

Mr. WILLIAMS of Delaware. I did not see the announcement until that night. I do not know when he made it. But the market dropped the next few days. There may have been but little connection, but it is a fact that the market operators and large planters were the interested parties.

Mr. MILLER. This is another example of how the market fluctuates based on statements made by certain Government officials. We have had some indications that there may have been some abuses

on information. Certainly there is suspicion in the minds of many people who read the newspapers and watch the newscasts that some persons have obtained information known as inside information. This area revolves around certain actions and statements made by soem of our Government officials.

I think it is a bad thing that the Secretary of Agriculture has undertaken to make such a statement in this instance. It seems to me he could have waited until the Congress had acted one way or the other, and then announced that he would recommend a veto. But to say, ahead of time, that if Congress passed the bill, he was going to recommend a veto places the idea in the minds of some people that, no matter what Congress does, if it is passed it is going to be vetoed. Then there will be speculation on the futures market.

Mr. WILLIAMS of Delaware. In fairness to the Secretary of Agriculture, I think it should be pointed out that he made the announcement too late to be effective on the market of that day. So if he was going to make such an announcement that would be the proper way to announce it to the American people. It would be well known, and the market would not be affected until the next day.

Mr. MILLER. I am referring to the announcement that the Secretary would recommend a veto of the bill.

Mr. WILLIAMS of Delaware. The Secretary's statement was that he would recommend a veto if the amendment stayed in, but the announcement was not made in time to affect the market that day, and it was made publicly. There was no leak involved here.

I respect the right of the Secretary to express his opinion for or against a bill. In this particular instance I think he made his announcement properly; namely, after the market could be affected that day. But that is different from the previous announcement which was the basis of the resolution that I sent to the desk.

Mr. MILLER. I did not understand—

Mr. WILLIAMS of Delaware. There were two different announcements.

Mr. MILLER. The Senator was referring to the announcement at noon—

Mr. WILLIAMS of Delaware. Yes.

Mr. MILLER. And the announcement that the Secretary would recommend a veto. I think the Secretary has a right to express his opinion, but I think the Secretary should be aware that the market is responsive to statements made by public officials, and should not have made the statement when he did that he would recommend a veto if the bill passed, based on the legal opinion which the Senator has put in the Record, which, of course, is rather superficial at best.

That seems to me to have been a premature statement of what the recommendation would be. It seems to me the time for him to have said that would have been after Congress had acted. If Congress had passed the bill, he could have said, "I am going to recommend a veto." But before the conferees acted, for him to make the statement seems to

me to have been premature, especially in light of the rather superficial legal opinion to which the Senator has referred.

Mr. WILLIAMS of Delaware. I appreciate the remarks of the Senator from Iowa. As I said, I think to be fair, the Secretary, as I understand, made the announcement properly and at the proper time. Heretofore the Secretary has announced decisions after they had been made behind closed door meetings, after the market had closed. The trouble developed when the announcement was carried over, awaiting a favorable opportunity when it could be announced on television. It was during that interval that a leak developed. Too many people knew what the decision was, and it was impossible for them to keep it secret. The announcement of these decisions should be promptly made after the market closed.

MOTION TO POSTPONE FURTHER CONSIDERATION OF CONFERENCE REPORT

Mr. President, I send to the desk a motion that further consideration of the conference report be postponed until June 15. That is 1 week from today. The clerk should state it. The motion will be pending on when the Senate convenes tomorrow.

The PRESIDING OFFICER. The motion of the Senator from Delaware will be stated.

The LEGISLATIVE CLERK. The Senator from Delaware [Mr. WILLIAMS] moves that further consideration of the conference report be postponed until June 16.

Mr. WILLIAMS of Delaware. Mr. President, the reason I make that motion is to give the committee an opportunity to get the department officials before the committee to discuss the far-reaching aspects of this proposal and to determine from them an estimate of its costs. Let there be no maybe's on how it may be interpreted. The committee should have done this earlier. There are some of us who think that this will not be a 4-year disaster but will disappear after the election in 1968.

THE ECONOMY OF PRICE-SUPPORT PAYMENTS

Mr. TALMADGE. Mr. President, the whole question of Government payments to farmers has come up again. Questions are being raised about limiting payments themselves as if they were welfare contributions or a handout.

I assure you the payments are not a handout. They are payments for services rendered. Rendered by farmers toward stabilizing our national economy.

Diversion payments, as my honored colleagues well know, are designed to help maintain a balance between production and the quantities of farm commodities needed to meet requirements here at home and commitments abroad. Such payments are made under acreage diversion programs for cotton, feed grains, and wheat as well as cropland adjustment, cropland conversion, and conservation reserve programs.

Mr. President, through acreage diversion, we use land itself as our food reserve instead of bulging warehouses where storage costs and even spoilage reach deep into taxpayers pockets.

Such a forward-looking approach as acreage diversion not only helps prevent

needless waste of surplus production and of our soil resource, but it also promotes the economic interest of our entire country.

However, when a farmer diverts or reduces his crop acreage, he also reduces his income. To help offset a farmer's loss from diverting acreage into conserving uses, the Government pays him a diversion payment to partially replace the value of what he could have grown on the land.

But the Government has not only asked the farmer to reduce his acreage in order to cut down on surpluses and conserve the soil, it has also—as in the case of cotton and wheat and some other crops—asked him to take a lower price-support loan to enable his product to compete more favorably abroad as well as help stop the dollar drain.

For example, the price-support loan on cotton, as Senators know, is now down to 21 cents a pound, some 8 cents less than a year ago. This is expected to increase our cotton exports as soon as old stocks in the foreign free world are further reduced.

To help compensate the farmer for this additional loss of income the Government is paying him a price-support payment based on the projected yield of cotton grown within his domestic allotment. Again, this is not a handout, but a payment for services rendered. And what should be generally recognized and appreciated is the fact that this payment as a price support device is more economical and more effective than the old higher price-support loan. Without this new approach, the cost of the program would be considerably higher.

Mr. President, I do not expect this small contribution to the clarification of an issue to put the question to rest, but I did want to explain to my distinguished colleagues why I am for the price-support payment system—and against any limitation on the amount paid to individual farmers.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR PACKAGING AND LABELING ACT — UNANIMOUS — CONSENT AGREEMENT

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate takes up the truth in packaging bill there be a time limitation of 1 hour, to be equally divided between the chairman of the committee and the cosponsor of any amendment, that there be 3 hours on the bill itself, and also that the

rule of germaneness apply to the unanimous-consent agreement.

The PRESIDING OFFICER. Is there objection?

Mr. LAUSCHE. Mr. President, reserving the right to object, has the issue on the conference report that has just been discussed on the Senate floor been decided?

Mr. WILLIAMS of Delaware. This vote will go over until tomorrow, but I assure the majority leader and the minority leader, as I did earlier today, that so far as I am concerned the Senate can proceed promptly to a vote tomorrow. I have no intention of repeating the arguments that I have made today.

While I prefer not to agree to a time limitation I assure the Senate that the vote will come promptly. I see no reason why the debate tomorrow should take too long.

Mr. LAUSCHE. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? None is heard, and it is so ordered.

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That during the further consideration of the bill (S. 985), to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, debate on any amendment, motion, or appeal, except a motion to lay on the table, shall be limited to 1 hour, to be equally divided and controlled by the mover of any such amendment or motion and the Senator from Washington [Mr. MAGNUSON]: Provided, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the majority and minority leaders: Provided, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

Mr. WILLIAMS of Delaware. Mr. President, I shall ask for the yeas and nays on my motion tomorrow.

Mr. MANSFIELD. The Senator from Delaware will obtain the yeas and nays.

COMMITTEE MEETING DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Armed Services may meet tomorrow morning until 12 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, if there is no further business to come before the Senate, I move, under the previous order, that the Senate adjourn until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 41 minutes p.m.) the Senate

adjourned until tomorrow, Thursday, June 9, 1966, at 11 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate June 8, 1966:

IN THE NAVY

Lt. Cmdr. Eugene A. Cernan, U.S. Navy, for permanent appointment to the grade of commander in the Navy in accordance with article II, section 2, clause 2 of the Constitution.

IN THE AIR FORCE

The following Air Force officer for appointment as permanent professor, U.S. Air Force Academy, under the provisions of section 9333(b), title 10, United States Code:

Wallace E. Fluhr, FR28972.

The following persons for appointment in the Regular Air Force, in the grades indicated under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be prescribed by the Secretary of the Air Force:

To be captains, USAF (Medical)

Regis C. Kohring, FV3166703.

Charles H. Raine, Jr., FV3124471.

David S. Russell, FV3165411.

To be first lieutenants, USAF (Medical)

David L. Hemsell, FV3141130.

Theodore S. Mathews, FV3092632.

To be captains, USAF (Dental)

James F. Bigalke, FV3125303.

James L. Bloss, FV3125792.

Harold W. Nichol, FV3089137.

Ralph H. Smith, Jr., FV3075165.

To be first lieutenants, USAF (Dental)

John T. Cooper, FV2206457.

Maurice W. Donnelly, FV3166465.

John C. Hoerath, FV3053736.

Henry J. Verwayen, Jr., FV3165734.

The following persons for appointment in the Regular Air Force, in the grade of captain, under the provisions of section 8284, title 10, United States Code, with date of rank to be determined by the Secretary of the Air Force:

Abbott, Wayne T., FV3080491.

Abbott, Wilfred K., FV3081739.

Adams, Dale C., FV3080381.

Adams, James H., FV3074652.

Agniel, David B., FV3056608.

Aho, Douglas D., FV3084989.

Aird, Donald W., FV3087548.

Akerlund, Edward T., FV3080994.

Albrecht, Ronald L., FV3083108.

Aldrich, Richard C., FV3087549.

Allen, Harold L., FV2224917.

Allen, James R., FV3080858.

Allen, William N., FV3087588.

Amtmann, Neal H., FV3072606.

Andrews, William R., FV3081727.

Anzalone, Samuel L., FV3029014.

Armstrong, Eugene F., FV3101085.

Armstrong, Henry W., FV3081451.

Armstrong, Michael R., FV3072147.

Astorino, Loring R., FV3081192.

Atwell, Glen D., FV3081364.

Aunan, Wallace N., FV3071219.

Austin, Lowell M., FV3080996.

Austin, Randall R., FV3080674.

Autry, Donald W., FV3087698.

Averill, David M., FV3081432.

Bache, Ronald H., FV3082877.

Bachem, Fritz M., FV3080334.

Bachmann, Richard E., FV3081663.

Bailey, Paul D., FV3080141.

Bainter Jack J., FV3087764.

Baird, Orville B., FV3084385.

Baker, John H., FV3081193.

Baker, Thomas A., FV3071315.

Bane, Raymond, FV3087769.

Barbera, Richard V., FV3087679.

DIGEST of Congressional Proceedings

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For actions of June 9, 1966
89th-2nd; No. 95

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HIGHLIGHTS: House passed food for freedom bill. Senate agreed to conference report on bill to permit alternate crops in disaster areas. Senate passed fair packaging-labeling bill. Senate passed National Water Commission bill.

SENATE

1. DISASTER RELIEF. Agreed to the conference report on H. R. 15151, to permit planting of alternate crops on acreage unplanted because of natural disaster. Rejected, 24-59, a motion by Sen. Williams, Del., to postpone further consideration until June 15. This bill will now be sent to the President. pp. 12153-61
Sen. Pearson asked relief for the tornado-stricken areas of Kans. pp. 12225-6

2. PACKAGING; LABELING. Passed, 72-9, with amendments S. 985, the fair packaging and labeling bill. pp. 12161-214
3. WATER RESOURCES. Passed as reported S. 3107, to create a National Water Commission to survey water resource problems and programs. pp. 12245-8
4. COTTON. The Agriculture and Forestry Committee voted, 10-4, to report (but did not actually report) with amendments H. R. 12322, the cotton research and promotion bill. p. D511
5. TOBACCO. The Agriculture and Forestry Committee voted to report (but did not actually report) H. R. 15124, relating to the filing time of tobacco acreage allotment leases. p. D511
6. FARM CREDIT. The Judiciary Committee reported without amendment S. J. Res. 150, to provide for designation of April 1967 as "Federal Land Bank Month" (S. Rept. 1227). p. 12107
7. ADMINISTRATIVE LAW. The Judiciary Committee reported with amendments S. 1336, to amend the Administrative Procedure Act so as to strengthen and clarify certain administrative procedures of Federal agencies (S. Rept. 1234). p. 12107
The Judiciary Committee reported with amendments S. 1522, to remove arbitrary limitations upon attorneys' fees for services rendered in proceedings before administrative agencies of the U. S. (S. Rept. 1233). p. 12107
8. SCHOOL MILK. Sen. Proxmire inserted Sen. Hartke's statement in favor of "adequate funding" of the school milk program. p. 12131
9. TOBACCO. Sen. Neuberger inserted an article, "One Million Teenagers Dying From Lung Cancer?" pp. 12133-4
10. DAIRY-SUGAR IMPORTS. Sen. Mondale urged administrative action to limit importation of certain products containing butterfat and sugar. p. 12136
11. FARM PRICES. Sen. Mondale inserted and commended a Washington Post editorial defending the level of farm prices. pp. 12139-40
12. RESEARCH. Sen. Scott inserted a statement by Vice Adm. Rickover on the research accomplishments of George Washington Carver. pp. 12140-1
13. ELECTRIFICATION. Sen. Yarborough commended the Tex. REA cooperatives' project of sending youth on a tour to Washington. pp. 12142-3
14. CONSERVATION. Sen. Bartlett inserted a statement by DeWitt Gilbert on responsibility for conserving natural resources. pp. 12147-8
15. COPPER IMPORTS. Passed without amendment H. R. 12676, to suspend the duty on certain copper imports until June 30, 1968. This bill will now be sent to the President. pp. 12153-4
16. TRANSPORTATION. Sen. Young, Ohio, spoke against any increase in tolls for shipping on the St. Lawrence Seaway. p. 12161

commended for his persistence in disclosing to the Senate the weakness of this program. The President of the United States should veto the bill.

TOLLS FOR SHIPPING IN THE ST. LAWRENCE SEAWAY MUST NOT BE INCREASED

Mr. YOUNG of Ohio. Mr. President, hearings are now being conducted in Chicago by the St. Lawrence Seaway Development Corp., with regard to increasing the tolls on the St. Lawrence Seaway by as much as 10 percent. I understand that officials of the Port of New York Authority, the Maryland Port Authority, the North Atlantic Ports Association, the Association of American Railroads, the National Committee for a Non-Subsidized Seaway, so-called, and the New York-New Jersey Committee for a Self-Supporting Seaway are appearing to urge increased tolls. Most of these parties are honest enough not to mask their identities under such flagrantly misleading labels as committees for a nonsubsidized seaway. Nonetheless, the purposes of all are clear.

It appears that the old opponents of the St. Lawrence Seaway are once again out to scuttle it—this time by increased costs. They want charges raised, and other impediments placed in the path of this growing artery of transportation so that it can never achieve the purposes for which it was built. Present tolls are already highly restrictive. A ship traveling the 316 miles from Montreal to Lake Erie traverses some 185 miles of man-made channels and locks with an effective depth of 27 feet. When loaded with 15,000 tons of general cargo, this ship now pays seaway tolls and transit charges amounting to more than \$14,000. However, to travel comparable distances in the manmade channels of the Hudson River, 32 feet deep, the Delaware River, 40 feet deep, or the Mississippi River, 36 feet deep—the same ship with the same cargo would pay not one cent in tolls.

As a Senator from a State bordering the Great Lakes, I am dedicated to the growth of the seaway and the expansion of the ports on the Great Lakes, especially those in Ohio such as Cleveland, Toledo, Ashtabula, Conneaut, Fairport Harbor, and Lorain. I shall do my utmost to assure that the seaway ports can compete with ports on other coasts on a fair and equitable basis, especially with regard to access to the sea.

Mr. President, products manufactured in Ohio and in other Great Lakes States can now be shipped more economically by the St. Lawrence Seaway directly to the ports of Europe and other continents instead of being taken by truck or train to eastern seaports, unloaded, and then loaded on oceangoing vessels. The St. Lawrence Seaway holds tremendous potential for Ohio and for all the States in the Midwest and every effort must be made to encourage its use. Increasing toll rates would only work to destroy the effectiveness of the seaway.

Every dollar which our Government has spent to construct our share of the

seaway project is a borrowed dollar on which 3½ percent interest is being paid. Both principal and interest must be returned from toll revenue derived from all shipping within a 50-year period. There is absolutely no need whatsoever to increase tolls at this time when every effort should be made toward encouraging greater use of this important seaway.

I cannot, and will not, stand idly by while eastern interests, whose ports have enjoyed a steady increase in traffic since the St. Lawrence Seaway opened, undertake to cripple or further disadvantage the Great Lakes ports.

Should tolls on the St. Lawrence Seaway be increased, I intend to ask that the Senate Committee on Public Works critically review Federal expenditures for future improvements of entrance channels leading from the oceans to our U.S. ports with a view toward placing all entrance channels on the same self-liquidating basis as the St. Lawrence Seaway. All of this Nation's seaports, including the Great Lakes ports, should be placed on the same economic footing with equal rights of access to the oceans of the world.

Very definitely tolls for shipping using the great St. Lawrence Seaway should not be increased. Let us encourage and not discourage more and greater use of this seaway so important to the prosperity of the Middle West.

I yield to the senior Senator from Ohio [Mr. LAUSCHE].

Mr. LAUSCHE. Mr. President, several days ago I made a statement on the floor of the Senate dealing with this subject. At that time I pointed out that a special committee of the Committee on Commerce, of which I was chairman, made a study of the operation of the St. Lawrence Seaway.

One of the conclusions reached was that an increase in tolls, instead of producing increased revenue would produce diminished revenue.

When the tolls were fixed it was assumed that the channel in the Great Lakes would be dug to a depth of 27 feet throughout the entire system of the lakes. That depth has not yet been reached.

Therefore, it can be justly said that the St. Lawrence Seaway has not yet been completed in accordance with the intention of the promoters at the time the legislation was adopted authorizing its construction.

We also have the situation that the cargo of the U.S. Government—which is the largest shipper of merchandise—because of the failure of ships carrying the American flag going into the Saint Lawrence Seaway, is not being carried out of the inland ports.

I concur strictly with the statement made by my colleague from Ohio that it would be a mistake to increase the toll. Greater tests should be made. We should wait until the entire channel is dug to a depth of 27 feet. We should wait to see that the Government begins carrying cargoes out of the inland ports, and not have them carried by rail to the Atlantic coast and then transferred into the flagships on the Atlantic coast.

I wish to commend my colleague for the position he has taken. I believe it is absolutely sound.

Mr. YOUNG of Ohio. Mr. President, I wish to thank my distinguished colleague.

He has made a most convincing statement. In addition, several days ago he made a very convincing statement in this Chamber that the tolls should not and must not be increased.

FAIR PACKAGING AND LABELING ACT

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The PRESIDING OFFICER. Under the unanimous-consent agreement, debate on each amendment is limited to 1 hour, to be equally divided and controlled by the mover of any such amendment and the Senator from Washington [Mr. MAGNUSON]; and on the question of final passage of the bill, the time will be limited to 3 hours, to be divided equally and controlled by the majority and minority leaders.

AMENDMENT NO. 576

Mr. MAGNUSON. Mr. President, last evening, before we took up the conference report, the Senator from Kentucky had proposed an amendment to the bill. Is that amendment now pending?

The PRESIDING OFFICER. The Senator is correct. The pending amendment is the one offered by the Senator from Kentucky [Mr. MORTON].

The amendment is: on page 25, between lines 16 and 17, insert the following new section:

SEC. 8. In order to prevent certain unfair practices that deprive manufacturers and retailers of the protection they should enjoy on the basis of fair competition and to protect consumers by guaranteeing fair prices and quality goods and to assist consumers in making price comparisons, and for other purposes, section 5(a) of the Federal Trade Commission Act, as amended, is further amended by adding at the end thereof the following new paragraphs:

"(7) The owner of a brand, name, or trademark shall be deemed to retain his property rights therein, and in the trade and public good will symbolized thereby, regardless of any sale or transfer of the goods to which such brand, name, or trademark relates, and no such sale or transfer shall be deemed to diminish or extinguish any such rights.

"(8) Any person who resells goods identified by a distinguishing brand, name, or trademark, either on the label, container, or dispenser thereof, may rightfully employ such brand, name, or trademark, but only in effecting the resale of such goods and subject to the following provisions of this paragraph. If goods usable for the same general purpose are available to the public from sources other than the owner of such brand, name, or trademark, and are in free and open competition therewith, the right of any person to employ such brand, name, or trademark in effecting resale of goods so identified may be

revoked for a period not exceeding one year by the owner of such brand, name, or trademark, subject to the provisions of paragraph (10) of this subsection, on written and dated notice of revocation, if, within ninety days prior to the date of the written notice of revocation—

"(A) such person has employed goods bearing such brand, name, or trademark in furtherance of bait merchandising practices;

"(B) such person, after written notice given by such owner of such owner's currently established resale price or price range, has advertised, offered for sale, or sold any such goods, acquired by such person after he has been given such notice, at a price other than such currently established resale price or at a price not within such currently established resale price range; or

"(C) such person, with intent to deceive purchasers, has published a misrepresentation or misrepresentations concerning such goods.

The owner of a brand, name, or trademark who avails himself of the provisions of paragraphs (7) to (17) of this subsection for the purpose of establishing a resale price or price range shall thereby subject himself, without respect to the amount in controversy, to the jurisdiction of the district court, of the United States for any district in which goods identified by such brand, name, or trademark are offered for sale, but such jurisdiction shall apply (i) only for the adjudication of issues involving the goods covered by such paragraphs (7) to (17), and (ii) only if the owner of such brand, name, or trademark is not subject to process in the courts of the State in which such purchaser acquired such goods.

"(9) Notwithstanding revocation pursuant to paragraph (8) of this subsection of the right of a person, in reselling goods, to employ the brand, name, or trademark which identifies such goods—

"(A) such person may, in the regular course of his business and within a reasonable time after the date of such revocation, sell all such goods of which, on such date, he is possessed: *Provided*, That in such sale he shall commit none of the acts described in subparagraphs (A), (B), and (C) of such paragraph (8); or

"(B) if such person, promptly upon such revocation, shall have supplied to the owner of such brand, name, or trademark a correct itemized listing of the inventory of such goods with a statement of the price paid per item and the total price (including transportation costs) paid therefor, together with a firm offer to sell and deliver all such inventory to such owner at any time within ten days thereafter upon payment of such total price plus the cost of transportation to the owner in the manner directed by such owner, then such person, upon expiration of the ten-day term of such offer without acceptance may so sell such goods in such inventory, in the regular course of his business and within a reasonable time thereafter, without restriction as to price, in which event each advertisement of, or offer to sell, such goods, shall state plainly that the right of the reseller, offering such goods, to employ in any way the brand, name, or trademark carried by the goods has been revoked as to any such goods not in that reseller's possession at the time of such revocation.

"(10) Any person whose right to employ a brand, name, or trademark has been revoked by the owner thereof pursuant to the provisions of paragraph (8) of this subsection, and who thereafter, except as authorized by paragraph (9) of this subsection, resells goods identified by such brand, name, or trademark, or who otherwise employs such brand, name, or trademark in effecting resale of such goods or any other goods, shall be liable in a civil action for damages and injunctive relief by the owner of the brand, name, or trademark, to prevent and restrain

further violations of paragraphs (7) to (17), inclusive, of this subsection. Such owner may sue in any district court of the United States in the district in which defendant resides or does business or in which the alleged violation occurred, without respect to the amount in controversy, and shall be entitled to (i) recover the amount of any damages sustained, (ii) injunctive relief to prevent and restrain further violations of paragraphs (7) to (17), inclusive, of this subsection, whether or not specific money damages are established, and (iii) recover the cost of suit. Any injunction granted under clause (ii) of this paragraph shall remain in effect for not more than one year from the date it is granted unless it is the second or a subsequent such injunction issued against the same defendant in favor of the same plaintiff in which case it may be a permanent injunction; except that any such injunction, upon petition of such plaintiff may be vacated unconditionally by the court granting it.

"(11) In any proceeding under paragraph (10) it shall be a defense for the defendant (A) to establish that the plaintiff has not used due diligence to effectuate observance or enforcement of plaintiff's rights under paragraphs (7) to (17), inclusive, of this subsection against other persons who are in substantial competition with the defendant and who are known to plaintiff to be violating the same subparagraph of paragraphs (8) of this subsection on which revocation of the defendant's right to employ the brand, name, or trademark was based or (B) to establish that the plaintiff has sold the same kind of goods of like grade and quality as the goods involved in such proceeding to another person similarly situated under terms more favorable or at lower prices than those under which the plaintiff offered such goods for sale to the defendant.

"(12) No action pursuant hereto shall preclude remedial action otherwise available for wrongful use of a brand, name, or trademark.

"(13) Paragraphs (7) to (17), inclusive of this subsection shall apply to all acts and transactions of the character referred to therein, in or affecting commerce, which Congress may lawfully regulate, but where the owner of a brand, name, or trademark avails himself of any right or remedy provided in paragraphs (7) to (17), inclusive, of this subsection, such action shall not cause any act or transaction not otherwise in, affecting, or related to, commerce to be an activity or transaction in, affecting, or related to, commerce. If any State, by any provision of its constitution adopted, or by any law enacted, after this paragraph takes effect, prohibits resale price maintenance in such State through the exercise of paragraphs (7) to (17), inclusive, of this subsection, then, while such provision or law is in effect, such paragraphs shall not authorize the establishment or enforcement of any resale price or resale price range with respect to any resale in such State of any goods if such goods so resold are to be delivered from a place in such State to a purchaser in such State and are not to be resold again for delivery to a purchaser outside of such State.

"(14) As used in paragraphs (7) to (17), inclusive, of this subsection—

"(A) The term 'person' means any individual, partnership, association, or corporation.

"(B) The term 'goods' means goods, wares, and merchandise.

"(C) The term 'currently established resale price' means the price for goods identified by a brand, name, or trademark specified by written notice involving paragraphs (7) to (17), inclusive, of this subsection given by the owner of such brand, name, or trademark to the person reselling such goods.

"(D) The term 'currently established resale price range' means all prices including and between the minimum and maximum resale prices for goods identified by a brand, name, or trademark, specified by written notice invoking paragraphs (7) to (17), inclusive, of this subsection given by the owners of such brand, name, or trademark to the person reselling such goods.

Each such currently established resale price and resale price range shall be uniform at each level of distribution, except for reasonable marketing costs. Such owner of the brand, name, or trademark may so establish, for resale of a combination of two or more items for goods, a resale price or price range different from the sum of the currently established resale price or price ranges for the items when sold individually. Such owner of the brand, name, or trademark may also engage in other promotional activities not made unlawful by any other statute.

"(15) All rights and remedies provided in paragraphs (7) to (17), inclusive, of this subsection, to owners of a brand, name, or trademark, shall be also available to any owner of a brand, name, or trademark who, in the sale of goods identified by such brand, name, trademark, shall compete, at any level of distribution, with any reseller offering such goods: *Provided*, That such owner shall sell such identified goods, at whatever level of distribution, only at the price or within the price range currently established by such owner for that level of distribution.

"(16) The following transactions shall be exempt from paragraphs (7) to (15), inclusive, of this subsection—

"(A) Sales of bulk commodities when sold without wrappers or containers.

"(B) Sales by any officer acting under the orders or authority of any duly constituted court; or sales by any person in mitigation of damages or enforcement of a lien or other secured interest in said goods, when such person is not primarily engaged in the distribution of goods for resale.

"(C) Sales of damaged, deteriorated, defaced, or secondhand goods, when plain notice of the condition of the goods is given to the public.

"(D) Sales of drugs, medicines, and devices for which either Federal or State law or regulations requires a prescription from a physician, dentist, or such other persons as the various States may authorize to prescribe such items.

"(E) Sales to or by the Federal, State, or municipal governments or their political subdivisions or agencies.

"(F) Sales to charitable, educational, medical, and religious organizations, for their own use and not for resale.

"(17) If any provision of paragraphs (7) to (17), inclusive, of this subsection or the application of any such provision to any person or circumstance shall be held invalid for any reason it is the intention of the Congress that the remaining provisions thereof shall not be affected but shall remain in full force and effect."

Mr. MORTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MORTON. Do I correctly understand that under the unanimous-consent request, 1 hour of debate is allowed on each amendment?

The PRESIDING OFFICER. One hour on each amendment, to be divided equally. The Senator from Kentucky will have 30 minutes under his control, and 30 minutes will be under the control of the Senator from Washington.

How much time does the Senator yield himself?

Mr. MORTON. I yield myself 5 minutes. Mr. President, the rationale for the enactment of S. 985, the so-called truth in packaging bill, is contained in the declaration of policy:

Informed consumers are essential to the fair and effective functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents, and should facilitate price comparisons.

With this there is no quarrel in either the minority or the majority report. There has been agreement, especially among members of the Senate Commerce Committee, that section 4 of the bill, requiring rules and regulations for packaging consumer commodities, would buttress existing Federal and State laws in providing the general public with protection against unfair and deceptive trade practices.

Equally important, the provisions of section 4 should enable the consumer to have the necessary label information to compare the prices of competing commodities in a product line.

If we consider it important to guarantee the consumer protection against unfair and deceptive packaging, and to enhance his ability to compare prices or compare products, I believe it is imperative that Congress extend this consumer protection to consumers with respect to fair prices and quality of products. To this end, I have offered this amendment, to carry out the provisions of what is known as the quality stabilization bill, of which I am happy to have been a cosponsor.

I also had the privilege of cosponsoring S. 774 in the 88th Congress, when the Vice President, the then Senator from Minnesota, introduced the bill in the Senate.

Knowing his long and ardent interest in this important legislation, and his inability as Vice President to participate in debate on the floor in the introduction of a bill, I offer this amendment and I urge its adoption.

I believe it is only fair that we who are here today who had the high privilege of serving with the Vice President for many years should take up the cudgels now and amend the bill in the form for which he fought for 18 years. I urge that we give this matter careful consideration.

The bill before us applies only to manufacturers. Actually, the markup is made at the retail level or the wholesale level. I think, for that reason, that we should get the retailers into this act.

I had the privilege of cosponsoring this bill with the present senior Senator from Minnesota [Mr. McCARTHY]. He certainly is knowledgeable in this field.

I think that we should, in deference to our former colleague, the Vice President, and the present senior Senator from Minnesota [Mr. McCARTHY] give serious consideration to this matter. I hope the amendment will be adopted.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. MORTON. I yield.

Mr. McCARTHY. Mr. President, I think that we should extend this to other Members of the Senate who sponsored legislation through the years. I would have preferred to have the committee give this matter careful consideration and report it on the merits. Since this has not taken place over the years I think it is in order to offer it at this time since Senators are familiar with what was formerly known as quality stabilization but more recently as truth in pricing.

I do not believe the truth in packaging means much unless we can move to the ultimate point upon which people make their decision as consumers, namely, truth in pricing.

Therefore, I support the amendment of the Senator from Kentucky.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. MORTON. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I support the amendment of the Senator from Kentucky.

I was also a cosponsor of a number of bills in the other body and in the Senate dealing with quality stabilization, now more properly referred to, as the Senator from Minnesota said, as truth in pricing.

The truth-in-packaging bill is a mislabeled bill. It has many good features in it. A number of features were added in the committee. The minority report itemizes some of the improvements in the bill. All members of the committee sought diligently to improve the bill to secure a better bill.

I supported the Cotton amendment because I believe it removes the objectionable, overly onerous regulatory features and at the same time preserves the intent of the bill, so that the ultimate consumer, usually the housewife, is able to make her judgments based fairly on honest and fair statements on the product itself.

That is why the net contents of the product are required to be stated in every case, clearly, and in a certain position on the package.

As the Senator from Kentucky has said, there is no provision in the bill which gets down to any sort of regulation of retailers. In the cents-off provision, the manufacturer is to be limited, and I think properly so, whenever it is not clear that the housewife is saving any money. At the same time the retailer can place the cents-off designation himself by putting a big sign over the shelf. The retailer may do a number of things which are prohibited to the producer, and widespread evasion is possible under the bill.

I believe, to bring this matter closer to the retailer, we should adopt the truth-in-pricing feature.

Now that this body did not see fit to adopt a clarity of labeling amendment—but it was a good proposal—we should seek clarity in dealing with the housewife, so that she will know the items are not only packaged correctly—

The PRESIDING OFFICER. The yielded time of the Senator has expired.

Mr. SCOTT. Mr. President, will the Senator yield additional time to me?

Mr. MORTON. I yield 3 additional minutes to the Senator from Pennsylvania.

Mr. SCOTT. But the pricing of the article is also in keeping with fairplay. The general import of the entire bill is that the housewife shall understand what she is buying, and buying at a fair price, which will enable the small businessman, the small druggist, and others like him, to maintain themselves in business against competition of the very large enterprise, which is increasing in this country.

Moreover, I have some sentimental reason for supporting the pending amendment since it was so long sought by the former distinguished Senator from Minnesota and now the Vice President of the United States. I believe that the desires of the Vice President, so often expressed in this regard, should be voted upon by the amendment of the Senator.

I thank the distinguished Senator from Kentucky for yielding to me.

Mr. MORTON. Mr. President, I yield myself 1 minute.

I will not burden the RECORD by inserting these very eloquent remarks, but I call to the attention of Senators the hearings on the quality stabilization bill in the 88th Congress, S. 774, beginning at page 74. They went to about page 94.

These are very eloquent remarks and a far more erudite argument for this bill than I could possibly give, made by the then-senior Senator from Minnesota [Mr. HUMPHREY]. I would like to have Senators refer to these hearings. I will not burden the RECORD by including them.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. MORTON. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield to the Senator from Rhode Island [Mr. PASTORE].

Mr. PASTORE. Mr. President, I shall vote against the amendment. I think it is stretching it a bit to say that this is truth in pricing. To use that appellation, I think, is dealing in the well known Trojan horse technique. This is price fixing.

We are here today discussing a bill dealing with truth in packaging to protect the consumer. This amendment is intended to gouge the consumer. I am against it.

Mr. MAGNUSON. Mr. President, I yield such time as is necessary to the Senator from Michigan.

Mr. HART. Mr. President, the Senator from Rhode Island [Mr. PASTORE] with his usual eloquence, stated precisely the reason that each of us has to vote against this amendment.

Price fixing, even with a Government representative present, is something we do not customarily encourage. Price fixing in private, which this bill would permit, is what we should oppose for the small businessman in this country.

Let us think what this amendment would accomplish. I hope that those who shall vote on it will ask themselves

whether in good conscience they really want to respond to the charge that we are vesting in some of the biggest corporations in this country the power to maintain prices for the American consumer and how much that will cost the consumer in the long run.

For these reasons I shall vote to reject the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield to the Senator from Louisiana [Mr. LONG].

Mr. LONG of Louisiana. Mr. President, I know that the Senator from Michigan [Mr. HART] is chairman of the Subcommittee on Antitrust and Monopoly Legislation, the principal legislative committee on the subject.

I very much oppose this amendment because it does tend to create a monopoly and denies public pricing competition.

This amendment, in large measure, would make a complete futility out of that section of the bill which would require that there be certain standardization of sizes so that the housewife can do her shopping better. Under this amendment, it would then be possible for everyone to say, in regard to coffee, "We will use the 8-ounce size, maybe 10 ounces." That will mean that coffee will be exactly the same price and the Federal Government will see to it that no one cuts the price.

Thus, what would be the use of working out standardization sizes for the housewife to compare prices, when we would put into the bill the requirement that prices be identical?

Mr. MORTON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. Mr. President, the argument which has just been made by my good friend the Senator from Louisiana I do not believe quite carries through. What we would be doing in this bill would be to attempt, as I understand it, to discount confusion and eliminate it. I am for that. We are all for that. There is no question about that. The point is, we are not putting any restriction on the retailer. The retailer can well sell 1 quart and 10 ounces at more per ounce than 1 pint 5 ounces. The bill does not touch that. The amendment, at least—which has been carefully studied and pushed for years by many eminent Members of this great body—does get the retailer into the act through control of the trademarked brand. I think that this is a necessary and vital part of the problem we are dealing with today.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. Mr. President, I was about to introduce a resolution commemorating the 150th anniversary of the Senate Committee on Commerce. "Fair trade" legislation has not been in the committee for that long a period of time, but it has been there for quite a few of

the years of the committee's 150-year tenure.

I have appointed I do not know how many subcommittees to hold hearings and report to the full committee on this bill, and I have always found a great reluctance on the part of members of the committee, first, to serve on the subcommittee; second, to report a bill; and third, to make public what they might think about it.

Mr. PASTORE. Mr. President, will the Senator from Washington yield at that point?

Mr. MAGNUSON. I yield.

Mr. PASTORE. Especially in an election year. [Laughter.]

Mr. MAGNUSON. But it is what the Senator from Kentucky says it is. It is a serious matter in the retail trade, and it is a highly controversial matter.

We have a library full of transcripts of hearings on this bill. It was originally known as the fair trade bill. Then the name was changed and it was called the Quality Stabilization Act. It is a little like the political party I know of that whenever they had a slight recession it was called a "rolling readjustment."

Mr. PASTORE. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. PASTORE. This afternoon we have added to its nobility by calling it the "truth in pricing" bill. [Laughter.]

Mr. MAGNUSON. Mr. President, the fact is, I am quite sympathetic. I have tried and tried and tried in committee, over the years, to see if we could not arrive at a consensus. But, it does not belong in this bill. We have not had any hearings on the merits of the change. I think that the so-called quality stabilization bill was even a better piece of legislation than the others were, but I also think that to put that in this bill would be disastrous for the consumers whom we are trying to protect.

Mr. MORTON. If the Senator from Washington will yield a moment, he has just stated that we have not had any hearings and then he refers to a roomful of hearing transcripts.

Mr. MAGNUSON. I mean on the new bill.

Mr. MORTON. It is the same bill.

Mr. MAGNUSON. They keep making changes all the time, so we call it a new bill. I am hoping that the Senate, regardless of how it feels about this particular matter—because it is a serious, highly sensitive and controversial matter—will vote not to put it in this bill.

Mr. LONG of Louisiana. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. LONG of Louisiana. Let me state that we have had some experience with this fair pricing proposal for quality stabilization—or whatever we wish to call it—and I can say with confidence, at least in Louisiana, that every time we had something of this sort connected with any commodity, its price went up. We put a fair price on whisky and we promptly paid 50 percent more.

Mr. MAGNUSON. That is too bad.

Mr. LONG of Louisiana. And so on, with other commodities. I would like to

check on the hearings and compare the prices where there has been a question of fair prices for what we could pay for the necessary commodities. I believe that the record will show, almost without exception, that wherever a fair price on a commodity has been set, the price has gone up twice as much.

Mr. MAGNUSON. Some States have repealed such a law and some States have adopted it. I think the wisest thing for Congress to do some day—and I am perfectly serious and honest about this—is to pass a law with some guidelines in this field and allow the States either to accept it or not to accept it. But that is something which will require long hearings and a great deal of study and consultation as well.

Mr. SCOTT. Mr. President, if the Senator from Washington will yield for an observation, I believe that we should assure all Members of this body that any truth-in-packaging bill will really not affect the price of whisky at all; so they can all relax.

Mr. MAGNUSON. I am not worried about the price of alcoholic beverages as much as I am worried about the prices of ordinary household goods for which the housewife is already paying enough in many respects.

Now, Mr. President, in order that we may put this matter in some perspective—I am not suggesting that this is a vote on this particular proposition—I therefore move to table the amendment.

Mr. President, I yield back the remainder of my time.

Mr. MORTON. Mr. President, I yield back the remainder of my time.

Mr. SCOTT. Mr. President, on that motion, I was for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington [Mr. MAGNUSON] to lay on the table the amendment of the Senator from Kentucky [Mr. MORTON].

All time on the amendment has now been yielded back.

On this question, the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana: I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New Mexico [Mr. MONTOYA], the Senator from Georgia [Mr. RUSSELL], and the Senator from Maryland [Mr. TYDINGS], are absent on official business.

I also announce that the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from New York [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. RUSSELL], are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Rhode Island [Mr. PELL], and the Sena-

tor from Maryland [Mr. TYDINGS] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Kansas [Mr. CARLSON], the Senator from New Jersey [Mr. CASE], and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from Hawaii [Mr. FONG], the Senator from California [Mr. KUCHEL], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Idaho [Mr. JORDAN] is absent on official committee business.

On this vote, the Senator from New Jersey [Mr. CASE] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from New Jersey would vote "yea," and the Senator from Texas would vote "nay."

On this vote, the Senator from Hawaii [Mr. FONG] is paired with the Senator from Idaho [Mr. JORDAN]. If present and voting, the Senator from Hawaii would vote "yea," and the Senator from Idaho would vote "nay."

The result was announced—yeas 51, nays 29, as follows:

[No. 91 Leg.]

YEAS—51

Bartlett	Hill	Moss
Bass	Holland	Muskie
Bible	Inouye	Neuberger
Brewster	Jackson	Pastore
Burdick	Jordan, N.C.	Randolph
Byrd, Va.	Kennedy, Mass.	Ribicoff
Byrd, W. Va.	Lausche	Robertson
Cannon	Long, Mo.	Saltonstall
Clark	Long, La.	Smathers
Dodd	Magnuson	Sparkman
Douglas	Mansfield	Stennis
Eastland	McClellan	Symington
Ellender	McGee	Talmadge
Ervin	McIntyre	Thurmond
Fulbright	Metcalf	Williams, N.J.
Harris	Monroney	Yarborough
Hart	Morse	Young, Ohio

NAYS—29

Aiken	Griffin	Murphy
Bayh	Hickenlooper	Nelson
Bennett	Hruska	Pearson
Boggs	Javits	Proxmire
Cooper	McCarthy	Scott
Cotton	McGovern	Simpson
Curtis	Miller	Smith
Dirksen	Mondale	Williams, Del.
Dominick	Morton	Young, N. Dak.
Fannin	Mundt	

NOT VOTING—20

Allott	Gruening	Pell
Anderson	Hartke	Prouty
Carlson	Hayden	Russell, S.C.
Case	Jordan, Idaho	Russell, Ga.
Church	Kennedy, N.Y.	Tower
Fong	Kuchel	Tydings
Gore	Montoya	

So Mr. MAGNUSON's motion to lay on the table Mr. MORTON's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. COTTON. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 22, line 21, after the word "packaging," insert "and the cost to consumers."

Mr. COTTON. Mr. President, I yield myself 5 minutes.

Mr. President, before I explain the amendment, I ask unanimous consent that the word "total", in the phrase that reads "the total cost to consumers", be stricken.

The PRESIDING OFFICER (Mr. HARRIS in the chair). The Senator has a right to modify his amendment accordingly.

Mr. COTTON. Mr. President, this is a clarifying amendment, which is offered to make the bill more effective.

On page 22, the bill provides:

In the promulgation of regulations under subsection (d) (2) of this section, due regard shall be given to the probable effect of such regulations upon—

Then, in line 21:

(1) the cost of the packaging of the commodities affected;

My amendment simply adds, after the reference to packaging, that consideration shall be given to the cost of packaging and the cost to the consumer of the commodities affected.

The aim of the amendment is to broaden the consideration which must be given to costs when the agency fixes the size or weight in which commodities may be packaged or bottled. The bill at present requires that consideration be given to "the cost of the packaging," but this does not cover the total cost to the consumer, which of course should be taken into consideration in establishing size or weight regulations. Changes in packaging sizes may affect costs in a number of ways. Such changes may require extensive changes in dispensing machines, in vending machines, in packing cases or shipping cases, or in countless other ways which should be given due regard by the agency.

The amendment would simply require that these other costs, where applicable, be given due regard.

I hope that this amendment will be acceptable to the chairman.

Mr. MAGNUSON. I believe that the elimination of the word "total" from the amendment indicates that no rulings would have to be made which would prove burdensome to the consumer. Whenever the agency desires to promulgate regulations, the cost to the consumer should be borne in mind.

I am glad to accept the amendment.

I yield back the remainder of my time.

Mr. COTTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire [Mr. COTTON].

The amendment was agreed to.

AMENDMENT NO. 575

Mr. COTTON. Mr. President, I call up my amendment No. 757.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 27, line 1, beginning with the words "for consumption" strike out all down to the period in line 5 and insert in lieu thereof the following: "and which when offered for retail sale customarily is enclosed in a package."

Mr. COTTON. Mr. President, I yield myself 5 minutes.

Mr. President, the purpose of the amendment is to clarify and also extend to some degree the scope of the commodities covered in the bill.

The Hart bill, S. 985, as reported,

seems to apply to products consumed by individuals or used by individuals for personal care or in the performance of services ordinarily rendered within the household, where the product is usually consumed or expended.

This is a narrow definition and could apply only to products sold in grocery stores and supermarkets. It would not, in general, apply to products sold in department stores or hardware stores or to many items sold in drug stores.

Why should these other products be excluded? Should not clear labeling apply universally? The President's state of the Union message said:

We must also act to prevent the deception of the American consumer, requiring all packages to state clearly and truthfully their contents; . . .

The President did not limit his plea only to packages sold in grocery stores, or only to packages of foods and soaps. He specified all packages.

We should not single out grocery products. As a matter of fact, it is in the non-food items that the largest number of labeling problems are likely to occur. This is because the Federal Food, Drug and Cosmetic Act contains specific labeling requirements. No such specific requirements, however, are found in the Federal Trade Commission Act, which generally applies to products which are not foods, drugs, or cosmetics.

It, therefore, is especially desirable in the consumer's interest, to make sure that the provisions of the bill apply to all retail products, to all products which the consumer may buy, and not merely to some of them. That is the purpose of the amendment.

The adoption of my amendment No. 575 would make clear and distinct the coverage of the bill—S. 985—instead of leaving many products in a state of active indecision as to whether or not they fall under the provisions of the bill.

I shall list items which would clearly be required to comply with the full labeling and packaging provisions of the bill, if Cotton amendment No. 575 is adopted. It is not clear whether such items are included in the bill as it now reads. The items are—

First, stationery and writing supplies—should the consumer not be informed as to the number of sheets of paper she gets in a package of stationery?

Second, gift wrapping paper, and other gift wrapping items.

Third, paints, varnishes, floor waxes, and all similar types of products. Many paints, in addition to standard pints and gallons, are now sold in special aerosol spray cans for household use. Clearly, they should be fully and truthfully labeled and packaged.

Fourth, clothespins. The housewife should know how many she is getting.

Fifth, string, clothesline rope, ribbons—in all these cases, she is entitled to clear, uniform labeling, as required in the bill. That means when they are packaged, not when they are cut off and sold in bulk.

The sixth is a group consisting of other items generally: Bottles of ink, glue and paste, nails, safety pins, straight pins the housewife buys to sew with.

Many of these items, such as nails and other products, have been disbursed in bulk and by weight through the years. Now they are packaged and sold in general stores, 5 and 10 cent stores, and hardware stores. These items are all packaged.

I can see no reason that the same requirement of clear labeling and packaging should not apply, in the good judgment of the Secretary, to these items.

As the bill presently reads, the two cans of floor wax that the Senator from New Hampshire used as illustrations were used constantly in the committee hearings. The wording of the definition is not entirely clear as to whether they would even be included under the act.

The amendment would simply include these other items at the discretion of the Secretary.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, I yield to the Senator from Michigan such time as he may desire.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. HART. Mr. President, the bill is the culmination of a long and serious effort to solve a marketplace problem that has occurred as a result of the pre-packaging revolution of the past decade.

The bill recognizes that the package has become the unit of measure in certain merchandising areas. We are seeking to make that measure meaningful to the consumer. This bill is aimed at facilitating the computation of price per quantity. In the packaged commodities with which this legislation is concerned, this is a serious problem. It is not a serious problem with hammer or a pair of shoes.

The amendment would make the bill apply to any commodity which, when offered for retail sale, is customarily enclosed in a package.

Coverage would be extended to thousands of items, I assume, not now included. It would bring within the purview of the statute durable goods, hard goods, textiles, hardware, and innumerable items sold in variety stores. The bill presently does not include such items in its coverage.

The bill is specifically concerned with practices developed in the course of this great growth in the prepackaging of consumable items during recent years. A great number of varying goods and items have been taken off the scale and put into a package during this period. As a result, the package and not the product has become the measure of comparison.

It is important that the package present the basic quantity offered in a way that will facilitate per unit comparison and make readily apparent on a per unit basis the price that a person is paying. The bill will facilitate the making of price comparisons.

But we would go too far if we were to place all consumer items under the bill. One shirt is one shirt. It is not necessary to compute the price per thread in order to know how much a person is buying.

The amendment would enlarge the scope of the bill without giving any of the new industries which would be affected an opportunity to explore their

own particular problems with the Committee on Commerce. That fact, perhaps more importantly than anything else, persuades me that expansion of the coverage of the bill in this regard is not wise at this time.

If it is believed that other industries produce the kind of problems that are sought to be covered by the bill, that, because of the limited definition are not now covered, then those industries should have their day in court.

I think, for that reason, that it would be prudent to defer extension of the broader coverage until we have had some experience under the bill.

Mr. COTTON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 3 minutes.

Mr. COTTON. Mr. President, I am really surprised at the remarks of my good friend the Senator from Michigan. I did not dream that this amendment would be opposed.

The amendment does not bring a single article under the bill unless the Secretary in his discretion finds that it is necessary for it to be covered. Even the mandatory provisions in the beginning of the bill give the Secretary authority to exempt any articles or commodities that he feels should be exempted and do not require any supervision.

Many of these articles, as the distinguished Senator from Michigan just said, are not consumable in the house. They are bought off the counters of stores. They consist of articles such as hardware and other things which have now been universally packaged.

All that the amendment would do would be to permit the Secretary to use his discretion. The other day when the Senator from New Hampshire was objecting to the granting of arbitrary power to the Secretary, my friends, the sponsors of the bill, were insisting that the Secretary should be entrusted with these powers. The amendment is in the interest of the consumer.

As the bill now stands, I do not assert that it is true, but it is apparently true that there are articles that are purchased in packages, by the housewife, which do not happen to be found in grocery stores, the labeling of which might well be covered; and this amendment simply extends that power to the Secretary. It does not compel him to go anywhere or label any article when he does not consider the interests of the consumer are involved. I am truly amazed that there is opposition to it.

The 1964 report of Senator HART's Judiciary Subcommittee contains a discussion of the sponsor's intent as to coverage. I read this report with some interest. It indicates that any commodity intended for "adornment, maintenance or repair of any structure or part thereof" is excluded from coverage of the bill.

That would clearly exclude floor wax and household paints from the bill. They should certainly not be excluded. If it is not necessary to cover them, if there is no question of content, if there is no question of too many sizes, if there is no question of clear labeling, the Sec-

retary has full power to exclude them; and why, when we are legislating for the consumer, we should take away from the Secretary the control of all packages, not just some packages, is beyond my comprehension.

If this amendment is to be opposed, I feel that I shall have to ask for a rollcall. I doubt whether there are enough Senators present now so that I can ask for it. I therefore ask unanimous consent to suggest the absence of a quorum, without the time being taken from either side.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Hampshire? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, being informed that there are enough Senators present for a sufficient second, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COTTON. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President, if the distinguished Senator from New Hampshire will yield back the remainder of his time, I yield back the remainder of mine.

Mr. COTTON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from New Mexico [Mr. ANDERSON], the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], and the Senator from Maryland [Mr. TYDINGS] are absent on official business.

I also announce that the Senator from Tennessee [Mr. GORE], the Senator from Indiana [Mr. HARTKE], the Senator from New York [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], and the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Rhode Island [Mr. PELL], and the Senator from Maryland [Mr. TYDINGS] would each vote "nay."

Mr. COTTON. I announce that the Senator from Colorado [Mr. ALLOTT],

the Senator from Kansas [Mr. CARLSON], the Senator from New Jersey [Mr. CASE], and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from Hawaii [Mr. FONG], the Senator from California [Mr. KUCHEL], and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Idaho [Mr. JORDAN] is absent on official committee business.

The Senator from Illinois [Mr. DIRKSEN] and the Senator from Iowa [Mr. HICKENLOOPER] are detained on official business.

If present and voting, the Senator from New Jersey [Mr. CASE], the Senator from Hawaii [Mr. FONG], the Senator from Idaho [Mr. JORDAN], and the Senator from Texas [Mr. TOWER] would each vote "nay."

The result was announced—yeas 7, nays 69, as follows:

[No. 92 Leg.]

YEAS—7

Alken	Jordan, N.C.	Murphy
Bennett	Morton	Simpson
Cotton		

NAYS—69

Bartlett	Hill	Nelson
Bass	Holland	Neuberger
Bayh	Hruska	Pastore
Bible	Inouye	Pearson
Boggs	Jackson	Proxmire
Brewster	Javits	Randolph
Burdick	Lausche	Ribicoff
Byrd, Va.	Long, Mo.	Robertson
Byrd, W. Va.	Long, La.	Russell, Ga.
Cannon	Magnuson	Saltonstall
Clark	Mansfield	Scott
Cooper	McCarthy	Smathers
Curtis	McClellan	Smith
Dodd	McGee	Sparkman
Dominick	McGovern	Stennis
Douglas	McIntyre	Symington
Eastland	Metcalfe	Talmadge
Ellender	Miller	Thurmond
Ervin	Mondale	Williams, N.J.
Fannin	Monroney	Williams, Del.
Griffin	Moss	Yarborough
Harris	Mundt	Young, N. Dak.
Hart	Muskie	Young, Ohio

NOT VOTING—24

Allott	Gore	Kuchel
Anderson	Gruening	Montoya
Carlson	Hartke	Morse
Case	Hayden	Pell
Church	Hickenlooper	Prouty
Dirksen	Jordan, Idaho	Russell, S.C.
Fong	Kennedy, Mass.	Tower
Fulbright	Kennedy, N.Y.	Tydings

So Mr. COTTON's amendment was rejected.

The PRESIDING OFFICER (Mr. PROXMIRE in the chair). The bill is open to further amendment.

AMENDMENT NO. 589

Mr. COTTON. Mr. President, I call up my amendment No. 589 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 19, after line 17, add the following paragraph:

"(3) regulate the terms, conditions, and redemption value of trading stamps or other premiums offered in connection with the sale of any consumer commodity. The provisions of section 3(b) shall not apply to regulations promulgated pursuant to this paragraph."

Renumber succeeding paragraphs.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized. How much time does the Senator yield to himself?

Mr. COTTON. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment relates to trading stamps. It should be clearly understood that it does not prohibit trading stamps. It merely places trading stamps, along with other promotions that are included in this bill, under the supervision and inspection of the Secretary of the Department of Health, Education, and Welfare.

One of the major features of the bill as reported is a provision conferring on Federal officials new authority to regulate cents-off promotions and other representations that the commodity is offered at a price other than the ordinary and customary retail sales price.

This is a feature of the bill which has drawn general support from more members of the committee. I believe it is generally agreed by all of us that if there is not now there should be sufficient authority in the Federal agencies to police deceptive pricing devices such as phony cents-off promotions.

That is the function of section 5(c) (3) on page 19. The cents-off provision of the bill is now limited in concept and does not deal with a large number of other promotional devices which may be deceptive and misleading, and which assuredly do not facilitate price comparisons as to consumer commodities. Indeed, these promotions clearly handicap the consumer in making price comparisons.

One of the major areas in this connection is trading stamps. There is not a Senator within the sound of my voice, nor was there a member of the committee, who is not aware that the giving of trading stamps and the giving of prizes and premiums for trading stamps is very popular with the housewife.

No Senator on the committee or in the Senate in his right mind, I suspect, would vote to deprive the housewife of the opportunities of those who like to save trading stamps. I could foresee that I would have great difficulty with some of my own friends if that happened. The amendment does not even suggest that those opportunities be prohibited. But it does seem that if the bill is to be thorough and careful in order to protect consumers from deceptive and misleading practices, and also from fraud, the Secretary should be given the power to inspect and control the issuance of trading stamps, just as it would give him the power to inspect and control the so-called cents-off promotions.

The pending bill would not prohibit cents-off sales. It would merely give the Secretary the power to see to it that they are fair and not deceptive.

Now there are all kinds of trading stamp projects in the country. Some of them are operated by retailers, some by individual stores, some by big department stores, and some are great national firms.

So far as I know, in most cases, the prizes given are not shoddy and are of reasonable value, but that does not mean that it is always so.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 additional minutes.

Mr. COTTON. Certainly the giving of trading stamps, or the failure to give trading stamps by individual merchants is something that can be readily abused and is often reflected in higher prices to the consumers. This higher price reflected to the consumer is something which deserves attention.

Now, Mr. President, I must confess that I was deeply disappointed that I was so overwhelmingly defeated by the last vote. I am not, never have, and never shall—because I hold Members of the Senate in too high regard and too profound respect—challenge anyone's motives, but we have been listening, all through the deliberations of the committee and all through debate in the Senate, to pleas in behalf of the consumers.

The pending bill is one to protect the consumers. Anyone who dares to raise his voice against the bill is therefore considered by many to be against the consumers and for the big, heartless corporations.

Let me say this, Mr. President—and I say it with some knowledge—that in many instances there has been lobbying on the bill absolutely contrary to the laws of this country—lobbying by members of the executive department. There has been a good deal of talking out of both sides of the mouth about what the bill would cover. In one instance, I know of the paint people who were told that paint was not covered by the bill so therefore they need not worry.

However, Mr. President, as the bill now stands, I venture to suggest that it does cover paints and varnishes used in the house.

I know of another instance where it was suggested that floor wax was not covered by the bill. That was the reason I offered an amendment to clarify not what had to be regulated but what the Secretary could regulate.

Mr. CURTIS. Mr. President, will the Senator from New Hampshire yield at that point?

Mr. COTTON. I am happy to yield to the Senator from Nebraska.

Mr. CURTIS. What commodity comes under this bill which is not subject to the discretion of the Secretary?

Mr. COTTON. None. Every commodity comes under the discretion of the Secretary.

Mr. CURTIS. Then the Secretary will regulate them?

Mr. COTTON. If the Secretary can find that any commodity should not come under the bill, even in the mandatory provisions at the outset of the bill, he may exempt that commodity which, in his judgment, he believes should be exempt.

Mr. CURTIS. By class, or individual.

Mr. COTTON. Well, a commodity is a class, I would assume. I do not mean that the Secretary could exempt manufacturer A, and not manufacturer B, but he can exempt a type of commodity that one or two or more manufacturers may be producing.

Mr. CURTIS. Then the Secretary could decide what commodities were cov-

ered by the bill. He would write the regulation and then decide on the penalty for violating a regulation.

Mr. COTTON. The penalty would be a cease-and-desist action, or other civil remedy. The committee took out any criminal penalty or criminal prosecutions under the bill.

In other words, the Secretary would be given complete latitude—if we give him complete latitude, and if we trust him with the authority that he would have under the pending bill.

Mr. President, is there any particular reason other than the fear that some of the women in this country might feel that the Senate is trying to deprive them of privileges which they like. Many women like cents-off sales. But the cents-off promotion, under the regulations, would not be prohibited. That would come under the regulation of the Secretary.

As this matter of trading stamps is so universal and is, really, a factor in comparing prices and determining the choice of customers, I can see no reason why, when the Senate is debating the proposed legislation, that they should not be subjected to the same scrutiny, investigation, and watchful care to which the other promotional practices are subjected. I repeat, the amendment would not prohibit them in any sense, but would merely bring them under the purview of the Secretary along with other promotional practices.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. Mr. President, I yield myself 1 additional minute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 1 additional minute.

Mr. COTTON. Mr. President, I believe the bill to be a good bill. I did not like that section in it which I strove so hard to have stricken yesterday, but I believe that 90 percent of the bill is good. I think that fair, clear labeling of products in the marketplace is necessary. This is a constructive bill. However, I see no reason why the Senate should legislate the bill and not make it complete in the fields it proposes to cover. Thus, I offer my amendment.

Mr. MAGNUSON. Mr. President, I yield myself 2 minutes.

I am sorry always to seem to be resisting any amendment offered by my friend the Senator from New Hampshire, because he contributed so much to make this bill what he termed a "good bill," during the lengthy hearings and markup sessions he had in the committee.

The only problem with his amendment is that I do not recall that we had any testimony on stamps, in the first place. If we had, it is not in the record. There may have been some testimony on it, but I do not recall it.

Second. I do not recall discussing trading stamps in the committee.

So the amendment deals with another phase in the consumer complex. It deals with the phase of pricing, and not with contents or truth in packaging. For that reason I hope the amendment does not carry.

Third. I have been a member of the State legislature, as have many Members of this body, and I think there is no greater lobbying activity in States that do not have trading stamp laws than that done by the trading stamp people. So there must be a great bonanza involved.

I know housewives like to get trading stamps. They think they are getting something for nothing. But the cost of the stamp is computed according to the amount of gross revenue, and the cost of the stamp must be reflected in the price of the products.

Trading stamps may be a good thing. The housewives seem to like them. Perhaps a profit is realized in the fact that many people do not redeem the stamps.

In addition, there is a great timelag between the time the stamps are paid for and the consumer redeems them.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. I yield myself 2 additional minutes. Use of trading stamps is a part of our American enterprise system, and I suppose it is a good one, but I would like the committee to examine it fully before a provision relating to trading stamps is placed in the bill.

Many States have established the prerogative of regulating the use of trading stamps in their States and consider it a State matter. There are laws regulating trading stamp operations in certain States. Many States have refused to allow the use of trading stamps. In those cases States have used their prerogatives.

I was hoping the amendment would not be offered to the bill, because it does not involve truth in packaging. It involves the question whether or not, when a consumer goes to the store and obtains stamps, she is able to redeem them and get something later, a bicycle or whatever it may be, and whether that is a fair exchange. That is a different matter than that now before the Senate.

I hope the amendment will be defeated.

Mr. COTTON. Mr. President, I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 2 minutes.

Mr. MORTON. My only point is, as the Senator from New Hampshire has so well pointed out, what is the difference between a cents off label and getting trading stamps? What is the difference between 2 cents off on the product one buys and getting 2 cents' worth of stamps at the counter after one buys the product?

I cannot follow the logic of the distinguished chairman on this point, because I think the two are absolutely commensurate. I cannot see any difference between a "2 cents off" label and the housewife receiving an equal amount of 2 cents from the cashier in the form of stamps.

Mr. MAGNUSON. The difference is that in one case something is given free and in the other case a price is involved. However, it is a question that the committee should look into. I hope we will

be able to look into it and have hearings on it.

Mr. COTTON. Mr. President, I yield myself 2 minutes.

I was interested in the comments of the distinguished chairman of the committee. I do not know whether he was present or happened to be in conference and did not hear all that was said during the long deliberations of the committee, but I can say the matter of trading stamps was touched upon by the committee, and that the comments made on it were to the effect, "Don't touch it. Don't touch it. It's dynamite." I doubt that there would have been any opportunity to get such a provision included to be looked at by the Secretary.

I offered this amendment simply because I felt that, as a matter of record, it should be made clear that when we are giving the Secretary of Health, Education, and Welfare powers to scrutinize, inspect, and watch over promotional practices and packaging and sales promotion and labeling of goods in this country, if we are to meet the issue squarely we should make the field of jurisdiction we are trying to give to him complete.

I frankly thought my other amendment was perfectly reasonable and logical and improved the bill.

I offered this amendment simply to find out something, I have found it out, and I withdraw the amendment.

The PRESIDING OFFICER. The Senator withdraws his amendment.

The bill is open to further amendment.

Mr. MAGNUSON. Mr. President, the Senator from Wisconsin had an amendment to propose. I do not see him present.

Mr. CURTIS. Mr. President, I wonder if I may be recognized.

Mr. MAGNUSON. No amendment is pending, and there is no time on an amendment that can be given to the Senator.

Mr. COTTON. Mr. President, I assume, in the absence of the minority leader, that I may yield 5 minutes on the bill to the Senator from Nebraska.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CURTIS. Mr. President, I rise for the purpose of asking the manager of the bill two questions. One is, How much will the bill reduce the cost of living for consumers, and how is that figure tabulated?

Mr. MAGNUSON. The bill does not deal with that question. The bill deals with packaged commodities. Some articles are exempted from the provisions of the bill. There is reference to commodities of under 2 ounces, spices, for example.

Mr. CURTIS. It is asserted this bill is to be for the benefit of the consumers. My question is, How many dollars are the consumers to be saved and benefited as the result of passage of this bill, and how has that figure been arrived at?

Mr. MAGNUSON. We did not talk about dollar figures. We wanted a housewife to know she was getting the dollar's worth of goods that she thought she was buying and paying for.

I do not know how much the bill will reduce the cost to that housewife. It might reduce costs considerably if there were not such a variation in the packages of commodities. If there were more conformity in the sizes of packages, it would reduce costs.

However, we are not discussing prices in the bill. The retailer is not included in the bill.

Mr. CURTIS. If the bill was for the benefit of the consumer, I assumed it would save him money.

Mr. MAGNUSON. We hope it will save the consumer money, but we have not made a tabulation of it.

Mr. CURTIS. How many additional employees will be needed to enforce the provisions of the bill?

Mr. MAGNUSON. It is estimated by the departments that it will cost \$1.5 million.

Mr. CURTIS. \$1.5 million?

Mr. MAGNUSON. Yes; that is the estimate.

Mr. CURTIS. I thank the Senator.

Mr. MAGNUSON. I wish it clearly understood that the purpose of the bill is to make sure that when the housewife spends a dollar to buy a product, she will get a dollar's worth of the product that she thinks she is buying. Prices of retailers are not involved. The manufacturers and packagers are involved.

Mr. CURTIS. There is no assurance that consumers will be protected by a floor with respect to prices?

Mr. MAGNUSON. If anyone could give anybody any assurances as to whether prices would go up or down, I am sure it would not be in a piece of legislation. If we can talk ourselves into a recession, I know a certain number of people would like to do it.

Mr. CURTIS. I am not in favor of that.

Mr. MAGNUSON. The Senator from Michigan [Mr. HART] has some figures which indicate the estimated savings to the consumer, although these savings cannot be guaranteed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. I yield the Senator from Michigan 5 minutes.

Mr. HART. Mr. President, I believe none of us would undertake to guarantee any figure, because we are projecting in a very foggy field.

If every American consumer were able to make a price-per-unit comparison of every item in the supermarket, how much would he save? We do not know. We do not know how many consumers will use the beneficial effects of the bill intelligently.

However, a careful survey of this matter was discussed in the Senate yesterday by Senator CANNON. The survey was conducted by Eastern Michigan University—33 young married women, all college trained, were given a list of 20 products which one normally buys for kitchen use, and the young women were sent to the local supermarket. I say all of them were college trained. They all had had at least 1 year of college. All the women were familiar with the products, and,

indeed, most of them regularly shopped at that supermarket.

A controlled analysis of that survey showed that on those 20 items alone, each year the shoppers were spending 9.1 percent more than they would have spent if they had been able successfully to identify the lowest cost per unit of the 20 items selected.

Mr. CURTIS. What prevented them from identifying it?

Mr. HART. You say what percentage?

Mr. CURTIS. No. What prevented them from identifying it?

Mr. HART. The kinds of practices that this bill is aimed at controlling, if not eliminating.

I think it would be helpful to put the survey in the RECORD at this point, and I ask unanimous consent that it be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the survey was ordered to be printed in the RECORD, as follows:

TRUTH IN PACKAGING: SOME BEHAVIORALLY BASED MEASURES AND THEIR APPLICATION IN A SUPERMARKET SETTING

(Summary by Monroe P. Friedman, Eastern Michigan University)

The matter of truth in the packaging and pricing of products in the American marketplace has been a subject of public controversy in recent years. This study attempts to define the issues in this controversy more objectively by treating "truth" or "confusion" as points on an underlying psychological dimension. Three behaviorally based, quantitative measures of confusion in unit price information for packaged products were developed and applied in a supermarket setting.

Thirty-three young married women were instructed to select the most economical package for each of twenty products on display at a local supermarket. All of these subjects had attended college for at least one year. All were familiar with the products on sale at the supermarket; indeed most of them shopped there regularly.

The twenty products employed in the study were selected on the basis of six criteria. Products selected included canned peas, paper towels, solid shortening, and powdered detergents.

The testing of the thirty-three subjects took place over a two-day period. Each of the thirty-three subjects was tested on all twenty products. Controls were introduced for order effects in the presentation of the products and also for the decision time permitted the subjects for the determination of the most economical choice for each product. Two days after the thirty-three subjects were tested thirteen of them were retested, thus permitting the determination of test-retest reliability coefficients for the three measures of confusion. Validity coefficients for these measures were ascertained from correlations with the subjects' pre-test rankings of the twenty products with regard to the estimated difficulty a typical shopper would have in determining the more economical of two packages for each of the twenty products.

The results indicate that all three measures of confusion on unit price information have substantial validity (rank correlations of .58, .62, and .70) and reliability (rank correlations of .91, .93, and .91).

A brief description of the three measures and some significant results of their application to the experimental data are as follows. The first measure, which simply counts the number of subjects who made correct choices

for each of the twenty products, indicated the minimum possible variation; no subject could determine the most economical package of powdered detergent, yet all thirty-three could select the most economical can of solid shortening. The second measure, which calculates for each product the average per cent increase in unit price for the subjects' selected packages when compared with the unit price for the most economical package, indicated an overall average increase of 11.5 percent for the twenty products. For the third measure, which employed data from a trade magazine studies concerning the total volume of sales for each of the twenty products, it was found that over a constant time period, say a year, the overall average increase in unit price for the subjects' selections, when compared to the most economical, would be estimated as 9.1 percent.

TRUTH IN PACKAGING IN AN AMERICAN SUPERMARKET^{1, 2}

The matter of truth in the packaging and pricing of products in the American marketplace has been a subject of public controversy in recent years. Much of the current attention stems from the introduction in the 87th Congress of the so-called Truth-in-Packaging Bill by Senator PHILIP A. HART of Michigan. The Senate hearings associated with this proposed legislation have stimulated nationwide interest, which has found expression in the mass media in the form of numerous newspaper and popular magazine articles.

Three basic assumptions of the Truth-in-Packaging Bill are as follows:

1. A state of consumer confusion exists in the United States with regard to the true contents and prices of many common retail products.

2. This confusion has resulted from improper packaging and labeling practices by American manufacturers and packagers of consumer products.

3. The remedy for these improper practices is a change to the federal law by which greater authority would be given to the Food and Drug Administration and the Federal Trade Commission in the regulation of packaging and labeling practices.

These assumptions are supported by the testimony of many witnesses in the Senate hearings concerned with packaging practices. As might be expected the hearings also produced testimony of witnesses who challenged one or more of the basic assumptions of the bill.

The current study attempts to objectively define the issues in the truth-in-packaging controversy by treating consumer confusion as a psychological variable capable of measurement. It is believed that this approach to the problem will permit an empirical evaluation of the first two of the three stated assumptions of the Truth-in-Packaging Bill.

METHOD

Subjects: Thirty-three young married women who were either students or the wives of students at Eastern Michigan University served as subjects (Ss). All Ss had attended college for at least one year and in addition had been married for one or more years. The Ss were tested in a local supermarket with

¹ This research was supported in part by a grant from the College of Arts and Science of Eastern Michigan University. Volunteers from The Ypsilanti, Michigan Chapter of the American Association of University Women, together with two students, Alice Gretzler and Margaret Keck, assisted in the data collection phase of the research.

² A briefer version of this paper was presented at the 1965 annual meeting of the American Psychological Association.

which they were familiar through previous shopping; indeed most Ss were regular customers of the store. Recruitment of Ss took the form of personal requests of the Ss through visits to their homes (mostly apartments in the married student complex of Eastern Michigan University). The Ss were paid for their time.

Procedure: The Ss were instructed to select the most economical (largest quantity for the price) package for each of 20 products on sale at the selected supermarket. A time limit was enforced for each product decision, a limit based on the number of packages on display for the product. More specifically, 10 seconds was allowed for each of the packages in the product category, unless either (1) there were less than six packages to a product class, in which case a one-minute time limit was used, or (2) there were more than 24 packages to a product class, in which case a four-minute time limit was employed.

In addition to stating which package she believed to be the most economical for each of the 20 products, each S reported to the experimenter (E) accompanying her, the information which she used in making her decision.

Each of the 20 products employed in the study had the following characteristics:

1. Two or more different size packages of the product were on sale at the supermarket.
2. Two or more different brands of the product were on sale at the supermarket.
3. The two or more brands for each product appeared to be comparable with regard to the nature of their contents. Thus dry cereals was not selected as a product since corn flakes and raisin bran do not appear to be comparable; on the other hand the different brands and varieties of family flour were considered comparable.
4. The products appeared to be widely used by American families.
5. The products were significant contributors to total supermarket sales. Thus table salt, which qualifies on the basis of the first four criteria was not used in the study since it represents only about .1% of total supermarket sales.

Finally, a characteristic not of any one product, but of the whole group of 20, was that the set of products appeared to be a balanced representation of the packaged products available at American supermarkets.

The testing of the 33 Ss took place over a two-day period. To aid in the testing a map of the supermarket was constructed with a specified route which touched upon the location of each of the 20 products. Ss were then tested in groups of five to ten. Each member of a group was randomly paired with an E and the two were randomly assigned to one of the 20 product locations as their starting point in the test sequence. After S had responded to E's questions at the first location, the two proceeded along the route to the next product location, and continued in this manner until S had been tested at all 20 product locations. This experimental design not only permitted the testing of many Ss simultaneously but also allowed the effects of a variety of product sequences (20 in all), to be reflected in the results of the study.

Thirteen of the 33 Ss were retested two days after their original testing, thus permitting the determination of test-retest reliability coefficients for the experimental measures employed in the study. Concurrent validity coefficients for the measures were ascertained from correlations with the Ss' pretest ratings of the 20 products. The pretest consisted of a brief story about a housewife who is undecided which of two packages of a particular product to purchase. The two packages are equally appealing to her on a number of grounds, such as appearance and quality of contents. She finally decided to purchase the package which gives her

more of the product for the price. It was pointed out to the Ss that the housewife's task of determining which of the two packages is more economical would vary in difficulty for the 20 products. The Ss were instructed to rank the 20 products, using an alternation ranking procedure, with respect to the estimated difficulty the housewife would have in determining the more economical of two packages containing the product.

As the time the pretest was administered the Ss were asked to indicate which of the 20 products were not usually found in their household.

Measures: Three behaviorally based, quantitative measures of confusion in unit price information are used in the analysis of the data. The first, Confusion Measure 1, simply indicates the number of Ss who made incorrect choices for each of the 20 products. Confusion Measure 2 calculates for each product the mean percentage increase in unit price for the Ss selected packages compared with the most economical package. Confusion Measure 3, which employs data from a supermarket trade magazine study dealing with the total sales for each of the 20 products, provides an estimate of the increase in price which an economy-minded household unit with a specified budget would pay over a constant time period, say a year, if its purchases reflected the values found for Confusion Measure 2.

The rationale behind Confusion Measure 1 is reasonably clear. We want to know whether Ss are able to select the most economical package for each of the 20 common products; indeed, the number of Ss who fail in this task should be an indication of the degree of confusion associated with consumer attempts to purchase supermarket products on the basis of economy. The second measure of confusion simply reflects the magnitude of the selection errors expressed for each product as a percentage of the unit price of the most economical package. It is assumed that the larger the value found for a particular product, the greater the error which an economy-minded consumer would be expected to make when purchasing the product.

The last measure to be considered, Confusion Measure 3, represents an interaction of the estimated consumer expenditures for a supermarket product and the percentage error, given by Confusion Measure 2. This third measure of confusion provides for each product a dollar-and-cents estimate of the additional expenses which an economy-minded shopper would bear due to errors in package selection. To give substance to this measure it is necessary that the actual records of consumer expenditures or estimates of such expenditures be available for processing. A search by the writer for a detailed product-by-product breakdown of the supermarket expenditures for some statistically average, or otherwise well-specified household unit, proved to be unsuccessful. Indirectly relevant data were found, however, in the Progressive Grocer Colonial Study (1963), which reports the percentage contribution to total sales made by each of several hundred products for six supermarkets in the southeastern United States. The six markets were members of a larger chain called the Colonial Stores.

It seems clear that the results of the Colonial Study do not reflect American supermarkets or consumers as a whole. The study was conducted over an eight-week winter period within a single chain of supermarkets in one region of the country. Thus there are seasonal, regional, and probably socio-economic reasons for suspecting differences. However, in the absence of any suitable national data dealing with either supermarket sales or consumer expenditures on an individual product basis, the results of the Colonial Study are employed in the

analysis of the Ss' responses of the present study. The reader is cautioned that the Colonial Study results serve only as an estimate, with strongly suspected biases, of the corresponding national data.

The percentage contributions to total supermarket sales for the 20 products of the present study are perhaps made more meaningful when applied to a consumer's annual budget of say, \$1,000 for supermarket expenditures. Thus the Colonial Study figure of 1.1% for powdered detergents assumes a value of \$11.00 for this hypothetical budget. For this budget, Confusion Measure 3 is simply the portion of the individual product expenditure which can be assigned to error in package selection. The actual amount assigned would depend upon the value of Confusion Measure 2. Thus a household unit with economical shopping habits and a \$1,000 annual supermarket budget might spend \$11.00 for powdered detergents. Given a value of 24% for powdered detergents on Confusion Measure 2, we would find $24/124$ of the \$11.00, or \$2.13, as the amount over and above the minimal amount of \$8.87 which our economy-minded household unit would pay if it always succeeded in purchasing the most economical package of powdered detergent. For this case then the value for powdered detergent on Confusion Measure 3 would be \$2.13.

Values for other products were found in a manner similar to that described above. One first constructs a ratio consisting of the value of Confusion Measure 2 over an expression made up of the Confusion Measure 2 value plus 100. The next step is to multiply this ratio by the estimated consumer expenditure for the product. To find the value for a total supermarket expenditure different from the base of \$1,000 employed here simply construct a ratio of the new total expenditure over the base of \$1,000 and multiply the Confusion Measure 3 value by this fraction.

RESULTS

Of the total of 660 decisions made by the 33 Ss, 47 represented products which the Ss stated were not usually found in their homes. Since the proportion of errors for these 47 decisions did not differ significantly from the corresponding proportion for decisions involving more familiar products, the two classes of selections (familiar and unfamiliar) were pooled for the purposes of analysis.

The three measures of confusion in unit price information were applied to the 20 products employed in the study and were found to have substantial validity when correlated with the experimental pretest (Spearman rank correlations of .58, .62, and .70 for Confusion Measures 1, 2, and 3 respectively). Likewise substantial reliability coefficients were found (Spearman rank correlations of .91, .93, and .91 for the three numbered measures). These reliability values may be somewhat too high, reflecting the unavoidably short interval of two days between first and second testings. The complete list of 20 products and their associated values on the three confusion measures are presented in Table 1. Also presented in Table 1 are the estimated consumer expenditures for the 20 products for a hypothetical consumer budget of \$1,000.

Examination of the values for Confusion Measure 1 reveals extremely wide variation for the set of products, with a tendency for food products to have lower values than non-food products. Significant differences were found for the set of 20 products on Confusion Measure 1 (Cochran $Q=283$, $P<.001$). The mean value of 14.3 yields an error rate of 43% for the 33 Ss. Significant differences were also found for the set of ranked product values on Confusion Measure 2 (Friedman $X^2=214$, $P<.001$) and Confusion Measure 3 (Friedman $X^2=242$, $P<.001$). It is of interest to note that of the total estimated annual consumer expenditure of \$121.20 for the 20 products the sum of \$10.15

can be accounted for by errors in consumer selections. Thus, if it were possible for an economy-minded consumer with a \$1,000 supermarket budget to always select the package giving her the largest quantity of a supermarket product for the money, she would pay an estimated \$121.20 minus \$10.15, or \$111.05. It is estimated then that a more

typical-economy-minded shopper, who makes her selections in conformance with the Ss' selections in the current study, would spend \$10.15 more than the errorless figure of \$111.05, or in other words, she would spend 9.14% more than the hypothetical consumer who was always able to select the most economical package.

TABLE 1.—Confusion values and estimated consumer expenditures for 20 supermarket products

Product	Confusion ¹ measure 1 (total errors)	Confusion measure 2 (percentage error)	Confusion ² measure 3 (weighted error)	Estimated annual ² consumer expenditures
Canned peaches.....	8.0	2.0	\$0.06	\$3.10
Canned peas.....	5.0	5.0	.20	4.10
Catsup.....	23.0	13.0	.28	2.40
Evaporated milk.....	2.0	0	0	6.60
Family flour.....	6.0	2.0	.13	6.70
Frozen orange juice.....	6.0	6.0	.36	6.40
Granulated sugar.....	0	0	0	10.70
Instant coffee.....	11.0	10.0	.92	10.10
Liquid bleach.....	32.0	32.0	.70	2.90
Liquid detergent.....	8.0	4.0	.24	6.20
Liquid shampoo.....	14.0	63.0	1.01	2.70
Mayonnaise.....	8.0	16.0	.46	3.30
Paper towels.....	30.0	12.0	.48	4.50
Peanut butter.....	7.0	2.0	.06	3.20
Potato chips.....	22.0	1.0	.05	5.30
Powdered detergent.....	33.0	24.0	2.13	11.00
Soft drinks (cola).....	27.0	17.0	2.01	13.80
Solid shortening.....	0	0	0	5.50
Toilet tissue.....	22.0	5.0	.37	7.70
Toothpaste.....	22.0	16.0	.69	5.00
Sum.....			10.15	121.20
Mean.....	14.3	11.5	.507	6.06

¹ N=33.

² Based on a total annual supermarket expenditure of \$1,000.

DISCUSSION

It is important to note that the plan and procedures of this study deal not at all with the day-to-day purchases of American consumers. It may be that economy plays a small role in many of these purchases. However for the purposes of this study the question of what actual criteria are employed by consumers at large in their supermarket shopping is largely an irrelevant one. The question of concern is the following:

Is it possible for consumers to select, within a reasonable period of time and without the aid of paper and pencil or of computing devices, that package of a particular supermarket product which offers the largest quantity of the product for the money?

If large numbers of consumers can not make correct selections when so instructed, and particularly if their errors are large, it would seem that the task is a confusing one. If in addition their errors are costly, there is real reason for concern.

Of course it does not necessarily follow that a confusing task results from improper packaging practices. However for the present study significant differences were found for the act of 20 products on all three measures of confusion, and it seems unlikely that these differences can be attributed in any large part to factors other than the differences in package characteristics. For example the possible influences of warm-up or fatigue effects were off-set by the experimental variations in order of product presentation. Also level of illumination appeared to be fairly constant for the 20 product locations. In addition, in several instances packaging practices were identified which required calculations which could not be performed without great difficulty, if at all, in one's head. For example the quantity of paper towels was presented in terms of number of sheets but the size of a sheet was not standard across brands. Indeed in the current study they ranged from a small of 7.5 by 11 inches to a large of 11 by 11 inches. Furthermore the number of sheets in a roll varied from 75 to 200. And finally, some rolls were packaged singly and others two to a package. Liquid bleach was a second prod-

uct characterized by difficulties which were apparently influenced by packaging practices. In particular one brand of this product which formerly was made up with the commonly employed 5.25 percent concentration of sodium hypochlorite, the active ingredient in bleach, had been reduced in concentration to 3.25% a short time before the data were collected; the selling price of the product however, had not been reduced, nor for that matter had there been a change to the label or package in any manner other than the listing of the new concentration on the back of the bottle. Since most of our Ss were regular shoppers at the supermarket employed in the study it appears that rather than examining the bottle closely, they assumed the concentration had not been changed. With the original 5.25%, concentration of sodium hypochlorite this bottle would have been the most economical selection; however with the change in concentration this was no longer the case.

Since the results of this study were influenced in no small way by the time allotted for each package selection it might be well to explain the basis for selecting the unit of 10 seconds. Since the Ss' task was considerably more demanding than day-to-day supermarket shopping it was felt that time should be provided above and beyond the normal shopping time. A recent study (Fitzimmons and Manning, 1962) found that it takes a shopper approximately one minute to select an item in a supermarket. This one minute period includes walking time in the store but not time at the check-out counter. The Ss of the current study were given an average of 2.35 minutes at each product location; with the addition of walking time they had available about three times as much time as they would be expected to take for their supermarket shopping.

It is of interest to inquire what generalizations might be made from the present findings to other Ss and other settings. First with regard to the Ss of the study it seems clear that they represent a combination of qualities that should make for extremely low confusion scores. As a group they are characterized by considerable education and by the financial strains usually asso-

ciated with young married college couples. These two ingredients suggest not only strong interest in economy as a criterion for supermarket shopping, but also considerable success in meeting this criterion. It would seem then that other individuals in general, and less educated individuals in particular, would not perform as well as the Ss of the present study.

Although superficially it might appear that the results of this study would transfer readily to other supermarket settings there are differences between markets which should be considered. Although many markets carry the major brands for common products they differ in the extensiveness of sizes available, and in the particular store brands which they carry.

Also differences in shelf space and position for a product might well influence the ease with which a shopper could make comparisons. Problems arise too when one attempts to generalize the results for the 20 products employed here to other supermarket products. That sweeping generalizations are clearly inappropriate is indicated by a Colonial Study finding that about 30% of the consumer's supermarket expenditures are allocated to meat and produce, two foods which are not packaged beyond a simple brown bag or cellophane wrapper. With regard to more typically packaged supermarket products, again problems arise. The selection criteria for the 20 products employed in the present study have provided us with a clearly nonrandom sample of packaged products. A particularly strong bias was introduced by selecting products with a record of relatively high total sales, which would imply relatively high familiarity among shoppers.

Two natural next steps of research are suggested by the data. The first would be a systematic study of what factors make for confusion in consumer selection. For example, packaging practices which are frequently claimed by consumer spokesmen to be confusing include the following:

1. Poorly presented information concerning both the nature of the contents and the quantity of contents. These deficiencies in display may take many forms; e.g., too small print, weak contrast between the printed information and the background, and failure to present the information at a prominent location on the package.

2. Misleading information concerning both the nature of the contents and the quantity of contents. "Giant quart" is a typical example of the latter practice.

3. Misleading information concerning price. Often cited here is the so-called cents-off specials. Representatives of consumer groups claim that these "specials" are often not acknowledged by supermarket managers in their pricing policies.

4. The use of unnatural numbers to indicate quantity. An example here would be the use of fractional or mixed numbers instead of whole numbers.

With a larger number of products than the 20 of the current study, regression analyses could be performed to determine which, if any packaging characteristics serve as good predictors of the confusion measures.

A second potentially valuable research step would involve the development and evaluation of training guidelines for consumers. With a larger and more heterogeneous group of Ss than the one employed here one could attempt to identify the distinguishing package information employed by high-scoring (as compared to low-scoring) Ss in their performance of the experimental task. A natural application of the results of such a study would be to consumers at lower-socio-economic levels.

CONCLUSIONS

Within the confines of the particular experimental setting employed, the following conclusions appear to be in order.

1. The three measures of confusion in unit-price information have substantial validity and reliability.

2. The 20 products differ significantly on all three measures of confusion.

3. There is reason to believe that these differences reflect, at least in part, differences in packaging practices.

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Mr. HART. Generally, they failed to identify successfully the lowest cost per unit of about half of these items. As a result of the difficulty in making conversions to the lowest cost per unit from the shelf figures, they were overspending 9.1 percent of their food dollar.

Mr. CURTIS. Was anything involved besides the cost per unit?

Mr. HART. No. That was the only purpose of the test.

Mr. CURTIS. For instance, some people believe that a certain kind of coffee tastes better than others.

Mr. HART. Indeed, yes. That is a quality judgment. Until you know the difference in cost between the competing brands, one is not able to determine whether the quality preference is justified by the cost difference.

Mr. CURTIS. What is sought is a more uniform size of packages and labels.

Mr. HART. No. What we seek is the information that the Senator from New Hampshire [Mr. Cotton], the Senator from Washington [Mr. Magnuson], and virtually all of us agree should be on the front of the package—information clearly stating the quantity that it contains, and preferably free of fractions. Once that information is obtained, these 20 women would have a fighting chance to determine what the cost per unit is.

Mr. CURTIS. If that is all that is sought, why is it not done by statute, instead of delegating to the Secretary of Health, Education, and Welfare the authority to that by regulation?

Mr. HART. One answer is that we have difficulty enough persuading the Senator from Nebraska that we ought to do it on an item-by-item basis, after study.

Mr. CURTIS. There would not be too much difficulty with me if Congress would write the law. I hesitate to delegate to the Secretary of Health, Education, and Welfare the writing of law.

Mr. HART. On the supermarket shelf are 8,000 items. We shall be in for a long summer.

The conclusion of the survey is that on the basis of these 20 items, if the normal purchase of those 20 items were projected over the year, a saving of \$12 per individual would be accomplished. Senator Cannon concluded yesterday that this phenomenal figure could be developed and projected from this analysis, that the average American family wastes about \$81 per year be-

cause of this difficulty, and the Nation as a whole wastes \$4.5 billion because of the confusion.

Mr. CURTIS. What will protect the consumer from inferior quality?

Mr. MAGNUSON. I suppose by experience.

Mr. CURTIS. You may control how the package shall be arranged, but that does not necessarily protect the consumer, if there is a free range to dilute the quality or anything else.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MAGNUSON. I yield myself 1 minute.

The matter of quality would police itself, because if a housewife finds that she is not getting in quality what she thought she was getting, she would not buy the product again.

Mr. CURTIS. I think that applies to all shopping activities.

Mr. MAGNUSON. The food business is highly competitive, and the people in that business are aware of this fact.

I should like to correct something I said to the Senator from Nebraska earlier, when he asked me a question. HEW estimates that the bill will require \$1.5 million in additional funds, and the Trade Commission says it would need an additional \$250,000. That totals \$1.7 million.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. COTTON. I yield 10 minutes to the Senator.

Mr. HRUSKA. Mr. President, S. 985, as reported, contains provisions which in the short and long run will have one most prominent effect—higher prices for the consumer. Section 5 allows the Federal Trade Commission and/or the Department of Health, Education, and Welfare to determine whether or not packaging practices in any product line might tend to cause difficulty in price per unit comparisons. Once such a determination has been made, the members of the industry, distributors, and consumer representatives get together to standardize the product containers. While this will be labeled a "voluntary product standard," the voluntariness is considerably discounted by the fact that the governmental department issues the mandate.

The ramifications of such a provision point to one thing—higher costs and thus higher prices. A producer who has over many years built up public acceptance for a particularly sized container may be forced to discontinue that size container and develop another. His past efforts in gaining public acceptance will go for naught. More important, his expenses necessitated for a radical change may drive him out of business. If he can make the change, his added costs must be passed along to the consumer in the form of higher prices.

For the past several years that the present legislation has been discussed, we have been warned of the adverse effects of product standardization. Many of the statements were made before the provision was more attractively ped-

dled with the deceptive label of "voluntary product standards," but any attempt at "truth-in-labeling" will indicate that the effects will be the same.

When this bill was known as S. 387, Mr. Paul S. Willis, president of Grocery Manufacturers of America, Inc., in his testimony on March 19, 1963, before the Antitrust and Monopoly Subcommittee, stated:

Bill would increase costs and prices; Before stating our technical opposition to the proposed legal control features of the bill, I want to discuss the practical effects of some of your other proposals, especially the one relating to standardization of weights and sizes. This proposal is utterly impractical from many standpoints. If adopted, it will slow down production, it will idle much of our present production facilities, it will require manufacturers to spend several hundred million dollars for new buildings and equipment for costly part-time use, it will raise unit production costs, et cetera, and without producing compensating benefits to anyone. Naturally, these legally required additional expenses and resulting higher prices to the consumer for the identical products she buys today. We are sure that she doesn't want this to happen. Neither do we.

We will give you some examples to support our above statement. Our members have naturally studied the impact which your proposed bill would have on their operations and they are greatly disturbed with their findings. For example, one manufacturer now has 19 packaging machines for handling 50 items.

To adopt your proposed standards would require the purchase of at least 20 additional machines at a cost of about \$4 million. Additionally, there would be the cost of extra buildings to provide the necessary space for the machines. But that is not all.

To comply with your proposal would likely mean part-time operating schedules for each machine, in contrast with present schedules where each machine is fully utilized to pack numerous items. This situation applies generally to manufacturers who pack a variety of products, and most of them do.

You may recall the testimony presented at your hearing in 1961 by one of the manufacturers, a part of which I shall quote, and I can identify him. It was Mr. Lee Bickmore of the National Biscuit Co.:

"Suppose we were required to pack each of our four varieties to a standard weight of 8 ounces. We would need three additional sizes of packages. Each different size would require a separate line of packaging equipment * * * it would cost us over \$1 million for each set of packaging machines to handle these four varieties * * * packaged as full as practicable to a standard of 8 ounces.

"What would happen to our costs? They would go way up. If we had four packaging machines, only 25 percent of our total packaging equipment and plant would be productive at any one time. Because of the time involved in shifting our employees from one to another, our costs would be further increased by additional startup and shutdown expense.

"All of these added costs have to be reflected in higher prices. If consumers refused to buy the products at the higher prices, we would have to stop producing them. As a result, both the freedom of choice and the production output would have been curtailed. This could become a widespread curtailment among manufacturers resulting in increased unemployment, lower earnings, and reduced tax payments to the Government."

Mr. Albert N. Halverstaedt, general advertising manager of Procter & Gam-

ble Co., gave an excellent commentary on the practical effects of product standardization when he stated:

... However, industry investment in manufacturing equipment already in use is quite heavy. For instance, we have estimated the cost to change packing equipment for four of our brands to three theoretical sizes based on weight. This would cost about \$8 million and would not cover even our whole detergent line. If such changes were made throughout industry, it would run into many, many millions of dollars. Such expenditures would have to be reflected in prices, thereby giving the consumer less value than is presently received.

Commenting further, Mr. Halverstadt dealt more fully with this point regarding establishing the weights or quantities in which a commodity is to be distributed for sale:

The detergent cartons I have here are examples of the volume standardization which we now have, the entire point being that although these are three quite different purposes and of quite definitely varying weights, the cartons are identical in size.

Now, these other cartons which I will show vary in size. They are examples of cartons that are standardized in weight. This is a 1-pound weight. These are just simply two examples of a 1½-pound size package. I made no attempt whatever to get correlation of the products. These are just, for instance, the present standard-size package we run in this size, some 1-pound packages, some 1½-pound packages.

As I pointed out, because detergents vary in density, it is necessary to vary the size of the cartons to pack a standard weight in each, and this presumes a sensitivity of the State weights and measures laws prohibiting slack fill.

Now, this difference doesn't appear to be large, but it would be very important to present packing machinery which cannot accept varying sizes, and as I believe was pointed out in our previous testimony, the cost to modify our packing machinery, high speed modernization packing machinery for only four brands in our company alone would total \$8 million for changed parts and the expense for changeovers in 1 year; \$2 million of this \$8 million would be a continuing yearly expense caused by constantly changing the machinery to run different sizes, and by the added costs of buying cartons in the variety of sizes required.

In 1962 Mr. Lee S. Bickmore, president of the National Biscuit Co., approached the question of standardization in his testimony. His treatment of such a proposal follows:

We sincerely feel this proposal is utterly impracticable for the baking industry and, with your kind permission, I would like to demonstrate this to the Committee. Since 1935 we have packed one of our most popular crackers in which we call our No. 99 carton. This carton was designed in 1935 to hold 8 ounces of this particular cracker.

At the present time we are packing 12 other crackers in this carton. Only 1 of these additional 12 varieties reaches the same level to fill at 8 ounces as does the cracker originally packaged in this box. For the remaining 11 products, it takes more than 8 ounces to reach the same level of fill. The declared net contents of those other 11 varieties are:

Number of varieties:	Net weight (ounces)
1-----	8¼
2-----	8½
1-----	9¼
3-----	9½
2-----	10
1-----	10½

Theoretically, any one of our more than 50 ovens could be adapted to bake all of these varieties. In actual practice, however, only those ovens serviced by a No. 99 packaging line can bake them because there is no point in baking them if we can't pack them.

One such packaging line represents an investment in plant and equipment of several hundred thousand dollars, about \$350,000, and requires a building area of approximately 4,800 square feet. We can't afford to make an investment of this size unless we can keep it fully productive.

Mr. Bickmore testified again on May 3, 1965, this time before the Commerce Committee on S. 985. Again, he warned of the higher costs which would result from any product standardization:

I should like to concentrate on the proposed authority to regiment consumer commodities in a way never before undertaken in this country.

This bill would do so by authorizing regulations controlling the weight or quantity in which any product could be packed, and prohibiting the distribution of any product in a package of a size, shape or dimension which some administrative official might conclude is likely to make difficult rational comparison with respect to price or other factors.

There is little doubt about the purpose of these provisions. They aim at standardization by weight. Let me quote from *Coronet* magazine for April 1965 where on page 13, Senator Hart writes:

"Instead of competing brands selling for example in 13½, 14½, and 17½-ounce packages, it would be easier for the housewife to figure her best buy if more standard sizes were offered, 1 pound, a half-pound, and so on."

The fractional ounce, by weight, seems to be a particular target. The supporting suggestion of the proponents that liquid products are usually sold in standard pints or quarts is both shortsighted and inapplicable. Our products are sold by weight, as are many others in the food industry.

You can standardize either by weight or by volume. You cannot do both. Any proposal to standardize weights is utterly impracticable for the baking industry. Modern methods have led us to standardize many packages by volume, allowing the weight to vary according to the density, shape, and other characteristics of the particular product. Let me briefly—and I hope vividly—demonstrate.

Here is an 8-ounce package of Ritz Crackers. It was originally designed in 1935 for that product. While it has been modified slightly, we now use it to package 15 other varieties of crackers. We call it the No. 99 package.

Only two of all of these varieties fill the package at 8 ounces. For the remaining 14 products, it takes more than 8 ounces to reach the same level of fill. Accordingly, there are nine different weights packed in the same size package. The proper weight is dropped automatically into the top of the package. It then moves on to other machinery which folds and seals the inner glassine paper, then closes and glues the top flaps of the carton itself. All this happens on our new oven at the rate of 81 to 130 packages per minute, depending on the variety.

Here are four transparent packages of the exact inside dimensions of our No. 99 package. The black line represents the level of fill to which the marked weights comes. The space above that line is required for the machinery which reaches in to close the package.

Suppose we were required to package only in 8-ounce units?

As you look at these, the contents of each transparent package is exactly 8 ounces. You can see what would result—unless we

deliberately slack filled these packages, new package sizes would be required.

I doubt very much that the advocates of standardization would permit slack fill to any such degree. In fact we pack now to the black line. Nor would National Biscuit Co. want to do otherwise. We try to play fair with our customers and consumers, whether legally required or not.

With a number of new package sizes required—and it could be as many as seven—to pack each of these to 8 ounces, we would sacrifice the economies of mass production because each new size at any one oven would require its own separate line of packaging equipment to handle it.

Just one such new packing line requires investment in plant and equipment of almost \$400,000 and a building area of approximately 4,800 square feet.

I asked our people for a preliminary estimate of the number of new packaging lines we would need based on our present bakery schedules. It was twenty-four! Even if we could cut the required number to 12, we would have to invest an additional \$5 million.

If we were to make that investment, what would happen to our costs? They would go way up.

If we had four packaging lines per oven, only 25 percent of our investment in packaging equipment—and plant required to house it—would be productive at any one time. Even if only one additional line were required for some particular oven, it would be idle half of the time. Because of shifting from one line to another our efficiency would be hurt by additional startup and shutdown expense. Our overhead would increase because of additional real and personal property taxes, insurance and maintenance costs, and the other expenses that would flow from this additional investment. All of these added costs would have to be reflected in higher prices. If consumers refused to pay the higher prices, we could not make these products. The variety of products available to consumers would thus be reduced. Freedom of choice and production would both have been curtailed.

I have talked about several of our products. This bill authorizes regulations for any consumer commodity. We simply do not know whether each variety of cracker is a separate commodity—or whether all crackers are the same consumer commodity. No one has been able to tell us thus far.

Mr. Harrison F. Dunning, president of the Scott Paper Co., appearing before the Antitrust and Monopoly Subcommittee in 1963 cut through to the heart of the matter. His testimony shows the real concern of the producer at the same time that it illuminates aspects of marketing which the proponents of such legislation fail or refuse to recognize. On March 13, 1963, he stated:

Well, Senator HART, my basic concern with this is the emphasis that this committee puts on price. Price is not the sole matter than an intelligent buyer has to consider in making a purchase. You want to emphasize the price and content feature. Somebody has 12 ounces at a price, and somebody right beside has 10 ounces at the same price. Well, the 10 ounces might be substantially better, a substantially better, a substantially better product.

There are quality differences in almost any kind of product that you want to name, and it just seems to me that you give all out-of-proportion emphasis to the price aspect of this thing. This came up this morning in the testimony time and again.

I think that a bargain is a balance of quality and quantity to make a value, and it just seems to me, first that it is wrong then to spend so much time and effort. You heard

Chairman Dixon say what it would take for him to police a law like this, more people, new buildings, and everything else. This is going to cost money and it is going to come from the taxpayers.

You have heard other manufacturers say that if you standardize on the numbers of ounces, let us say, that you are going to obsolete their equipment. I have heard of one who has estimated that the passage of this law would require them to spend \$3,800,000 for new machines, and they probably do not have \$3,800,000.

Senator HART. Did you ask them how?

Mr. DUNNING. How?

Senator HART. Where in this bill they would be required to do it?

Mr. DUNNING. Standardization of sizes which won't necessarily fit the equipment that they now have.

Senator HART. But the bill does not obligate a regulation to be issued.

Mr. DUNNING. It does not obligate it, sir, but makes it possible.

Mr. Edward Brown Williams, counsel for the National Association of Frozen Food Packers, delivered a statement on March 10, 1963. His comments were specifically directed at the provisions of S. 387, but their relevance to S. 985 is apparent:

We are forced to recall that this committee has heard expounded the economic theory that many industry packaging practices are wasteful and unduly costly to industry and consumer alike, that government should curb such practices, and that it is bad for one firm to be permitted to market a package which is allegedly uneconomic and, because consumers are attracted by it—to force other members of the industry to engage in a similar endeavor.

There were references to containers which give a "billboard effect, an advertising effect." We must ask, what is wrong with this? Billboards and advertising and more expensive containers are not deceptive because they sell a product. If they, or a container, are in fact deceptive, present law can deal effectively with them.

If, regardless of deceptiveness, a container could be prohibited because it has a "billboard" or "advertising" effect, what about non-deceptive advertising outside the store? We wonder whether there will perhaps be another bill which would curb this also on the ground that it effectively plugs a product at a cost higher than that for which it would be possible to market the product and is therefore uneconomic and contrary to the best interest of consumers. We are apprehensive that the concept of deception and unfair competition is being so broadened by this bill, read in the light of its legislative record, that legitimate and heretofore clearly lawful business operations and policies will be subjected to government control.

Let me just remark here that the impetus to buy may arise, not because a cute, tall, thin, bottle is deceptive but because the purchaser likes it and would rather have an attractive bottle than a drab one.

If, for example, a packer of frozen concentrated citrus juices should find it feasible and attractive as a business proposition to market his product in a curvaceous container instead of in a container with the simple lines of the traditional tin can, we think that he is entitled to do it so long as he is not deceiving the consumer.

Some individuals deplore as uneconomic the additional costs which they say are involved in the building of a package beautiful. It seems at least doubtful whether their economic theory is so sound that they can demonstrate that, instead of hiking costs, such innovations do not sell more goods and, in the long run reduce costs. If, as we believe, this doubt exists, surely restricting legisla-

tion is not appropriate—again, when there is deception, there is already applicable legislation.

Section 3A(g) of S. 387 would require each packer or distributor to submit to FDA upon its request "a true and correct sample of each package and label used or to be used by that producer or distributor for or in connection with the distribution in commerce of any particularly described consumer commodity. . . . This apparently means that the filled package containing the food product must be submitted. In the case of some manufacturers this could mean the transmission of hundreds of packages and, it may be added, nothing is said about payment for the commodity.

However this may be, the provision in question amounts to a premarketing clearance requirement, since its language reads "each package and label used or to be used." If a standardizing or other packaging regulation is already in effect, amendment of the regulation would frequently be required before a new package or label "to be used" could be marketed and the agency could exercise an effective veto upon the new package or label simply by refusing to amend its regulations. If no applicable regulation is in effect prohibiting the sale of the new package a warning to the manufacturer that such a regulation would be established would be an effective veto upon the use of the new package.

This provision, then, coupled with the rule-making authority delegated under other provisions, would effectively hand over to a federal agency the power to control marketing policies and practices of industry in the packaging field. Not only is FDA unequipped to make such basic business judgments but the enormity of the job of dealing with the thousands of products which would come under its jurisdiction would mean necessarily that some established packages would be marketed without control while others, in a different category but competing with the unregulated ones, would be made subject to restrictive regulations. This inevitably selective process would itself result in an unfair competitive situation—and this could be done by discretionary agency rules, without hearing or other procedural safeguards.

No new product could be marketed if FDA didn't approve of it. The expense of formulating the new product and its packaging would be wasted if approval were withheld and, in any event the delays always incident to administrative action may fairly be expected to develop upon a grand scale. To what extent these artificial brakes and prohibitions would discourage innovation by industry can only be a matter of speculation. It can safely be assumed that discouragement would be widespread and substantial.

We know from experience that FDA, under present law, has effectively curbed new products which resemble or may be used in lieu of traditional foods. It matters not that the labeling of the new product is honest and that the consumer knows what he is getting. This is not a history which is conducive to confidence that the right to innovate will not suffer far greater encroachments than it has in the past. The power would be there and the fact—as we believe—that the bill goes beyond traditional concepts of misbranding and deception adds to our misgivings.

I have here a container for frozen concentrated lemonade which is now on the market. It is a widely known brand. It is in the shape of a tetrahedron. It has four sides although you may have to look closely to come to that conclusion. It contains 6 ounces and, as stated on the container, will make 1 quart when its contents are combined with 4 cans of water.

If a regulation standardizing shapes or dimensional proportions of containers for froz-

en concentrated lemonade had been in effect when this tetrahedron-shaped container first came to the attention of the producer of the product, he could not have marketed it without first submitting the product in its proposed new container to FDA and obtaining an amendment of the regulation.

If no such regulation had been in effect the packer could have been required to submit the container to FDA for clearance, under the provisions of the bill. In either case the fate of the new departure in packaging would be speculative and, as I have noted, the delay incident to a negative or affirmative decision by the agency is not a matter upon which a business organization can look with equanimity.

Now, perhaps you will ask, as I did when I found this unusually shaped container at the Frozen Food Exhibition in Dallas last week, why did the packer want to use this container?

I am informed that there are three economic advantages to its use: Savings in raw material costs, savings in space for packaging material, and freight savings because of lighter weight. Thus, in quantities of 1 million units the savings in purchase price per dozen over the aluminum and foil cans would be \$0.055 cents, or more than \$4500 for the 1 million units. The freight savings would be \$0.004 cents per dozen over the foil can, or a total for 1 million of \$333. The corresponding savings on purchase price and freight over the tinplate can would be more than \$6100 and \$740, respectively. In quantities of 5 million units the savings on the purchase price would be, over the foil can \$25,830 and over the tin can, \$33,749. In the larger quantities in which containers are frequently purchased, savings are greater. The figures quoted are for the six ounce can.

Obviously, this is but one of numerous instances in which the right to innovate and the benefits frequently derived from innovation, could be seriously curtailed under the pending legislation, to the disadvantage of industry and consumers alike.

I have referred to the fact that the kind of competition at which the bill is aimed has been called "nonprice competition". That is a catchy term, but what does it mean? The purpose of competition is to sell a product and make a profit in the process. Competition by the use of deceptive practices is unfair competition. It is immaterial whether the deceptive practice is directly related to price or is primarily a function of format and design of packages. I have noted that competition based on packaging or advertising practices can be either fair or unfair depending upon its nature. When, however, it is authoritatively said by the chief sponsor of the bill that an aim of the bill is "that the spirit and substance of the antitrust laws be extended to the relatively new form of nonprice competition represented by packaging" we fear that all competition in packaging not directly a function of price may be prohibited, whether or not it is deceptive. We find it difficult to believe that this exceedingly broad authority is intended yet the legislative background of the bill is such and the scope of the discretion which would be granted to FDA is so broad, that we have been forced to the conclusion that the bill could be construed to grant such authority.

The complexities of product marketing and the effect that product standardization would have on costs and prices was graphically brought to light in the following colloquy in the course of the hearings conducted by the Antitrust and Monopoly Subcommittee in October of 1961:

Mr. CHUMBRIS. . . . Let us say we had a 303 can and that is a standard can as I understand it. It is your point here that if

you put one product such as peas in it, that you may get a certain weight, and you are not assured whether it would be 13 or 14 or 16 ounces; it may 14¼. And if you put cranberry sauce in it you may get another weight that could be with a fraction on it.

Mr. ANDREWS. (TOPCO Associates, Inc.)—That is correct.

Mr. CHUMBRIS. And if you try to tailor cans to each different product, it would increase the cost of the product to the consumer?

Mr. ANDREWS. That is correct. Supplier A may wish to introduce their new product into a very competitive market of 32 ounce products. Because of special packaging, such as a reusable container, plus the high cost of advertising and promotion required to establish a new product in the market, company A may have to select a 28-ounce contents package to provide for the moneys required to put their product over and yet remain competitively priced. To require 32 ounce contents would prohibit this new—and possibly better—product entry into the market.

In the Appendix to the Department of Commerce comments on the cost to industry of complying with product standardization several factors were noted. These comments were made in 1963 and thus dealt with S. 387, but have applicability to the possible effects of S. 985:

The case of plastic containers, for example. Any change in the size and shape of the package would, of course, require a change in the surface printing, which in all likelihood would require new design, new plates, etc., at the average cost figures noted above under discussion of the mandatory provisions of the bill.

Beyond that, a change in the size or shape of the package would also involve changes in the packaging line, which includes the machinery for sorting, weighing, measuring, filling, package forming, closing, sealing, labeling, and packing into shipping cases.

Where the packaging line is set up for a large volume operation, the line is specifically designed to serve a specific package. The machinery is adaptable to other packages, but the changeover may well require 2 or 3 days downtime and it may involve a cost of \$12,000 to \$15,000 per packaging line. The impact of this change would, of course, be lessened if it were done in connection with a change which the manufacturer was planning to make in any case for reasons of his own, including product modification, new promotions, new advertising appeals, etc.

Mr. Edward J. Heckman, president of United Biscuit Co., appeared before the Senate Commerce Committee to give his views on S. 985. Regarding costs, Mr. Heckman was quite specific.

Since present laws already ban deception in any form with no exceptions, the inclusion of this provision in the bill has only one obvious purpose—to clearly define the authority of the Federal Government to establish weights and quantities in which such products as cookies and crackers may be sold. It assumes that a package weighing 9½ ounces, although clearly labeled, could inherently be considered deceptive because of its weight alone.

To emphasize, if a weight is used deceptively, it is already prohibited by existing law. Standardization, then, and not deceptive practices, is the clear objective of the proposed bill.

Stated in question form, the issue before us under this proposed provision is: When value and variety conflict with a goal of standardized weights, which will prevail?

In the dramatic strides made in improved packaging in the last 30 years, if there was a conflict of value and variety with standardized weights, the value-variety considerations for the customer have always won out.

Today, the victory of value and variety over standardization is in question. I do not want to imply that the two considerations are necessarily and always incompatible. Forty-seven percent of the packaged items we distribute for sale through grocery stores are packaged in quarter-pound multiples, most of them in half-pound or pound sizes. These account for approximately two-thirds of our sales.

Obviously, the company I represent is not avoiding standardized weights. Two-thirds of our business is done that way.

It is the remaining one-third which is imperiled by this bill. That remaining one-third represents the jobs of many people in the aggregate. This is the one-third of our business where, when faced with the choice of giving the consumer maximum value and variety, rather than standardized weight, the consumer has received what she obviously wants—value and variety.

There are 24 items in our line which are packed in fractions of ounces. These account for approximately \$14,700,000 in annual sales.

In addition, there are 28 more items in our packaged-goods line for which whole-ounce weights are used, but in which these weights are not conveniently expressed as fractions of a pound.

Seven ounces, for example, while an obviously easy-to-understand weight, comes out at 43.75 percent of a pound.

Such packages in our line account for total sales of approximately \$24 million a year.

These two groups of items, representing almost \$39 million in annual sales and the jobs of many people in our company, are jeopardized by this legislation.

Why are these packed this way, rather than in multiples of quarter-pound weights?

There are three reasons, all of them rather directly tied in with the quest to give the consumer maximum value and variety for her cookie and cracker dollars. First, because of available equipment.

I am sure other witnesses will also have testified regarding the implications of this legislation as it would relate to additional equipment required in their food plants.

My testimony concerns our bakeries and the probable impact of this legislation on our sales and our employees.

We have spent many millions of dollars in our bakeries to provide efficient packaging equipment. All of you are familiar with a longtime household favorite, the 1-pound carton of graham crackers. To manufacture this item, we have invested more than \$500,000 in specialized packaging equipment. This packaging equipment is designed to accommodate the capacity of a modern oven to produce 5,000 pounds, or 2½ tons, of graham crackers an hour. By making this type of investment, we have been able to produce a graham cracker which in quality of product and packaging has been improved over the years while the cost to consumer in constant dollars has gone down.

With this equipment and carton available, we were able to develop a very popular companion product known as Cinnamon Crisp. However, because of the unique formulation of Cinnamon Crisp, and the technical difficulties in controlling the total volume of this type of cracker, the finished package weight in the graham cracker carton is 14¼ ounces.

If we were required to package this product, at its present quality standards, in a 12 or 16 ounce package, completely new and duplicated lines of packaging equipment would have to be developed alongside the \$500,000 in equipment developed primarily for graham crackers.

Additional bakery space would have to be provided. Additional sanitation personnel would have to be made available. Additional inventories of packaging materials would have to be carried. Maintenance and up-

keep costs, such as for heat and light, would be increased.

All of this would result only in an increase in price for Cinnamon Crisp without in any way increasing the value of the product. To increase price with no increase in value cannot mean anything other than lowered sales. Lowered sales means lower employment, primarily in the bakery cities where this product is made.

I have chosen this item to illustrate for you the problems we are likely to face under the terms of this legislation because it is a product that perhaps is familiar to many of you. In addition, it also happens to be the largest selling item we have which is marketed in a fractional-ounce weight. By contrast, using the same packaging equipment and the same carton, we market a product called Waldorf Salt-Free Crackers. To my knowledge, this is the only product of its type available in grocery stores. Understandably, the market for this product is very limited. Its users are primarily those on restricted diets. I can assure you that few would eat this product if not on such a diet.

By contrast with the 16 ounces of graham crackers and the 14¼ ounces of Cinnamon Crisp, the finished weight of this package in the same carton is 13 ounces. No other present package in our line would accommodate this product so that it could be marketed in 4, 8, 12 or 16 ounces.

There would be no course open to us, if standardized weights were imposed, but to discontinue this item. Personally, I would not be affected as a consumer. Maybe none of you would either. The loss in sales would affect the earnings of our sales people in a minor way. Only a relatively few of our production people would lose their jobs. The maze of choices facing the consumer would, most certainly, be reduced by one.

I have used just one illustration from many which I could have used. Another important point, however, which should not be overlooked, is that there would not have been a Waldorf Salt-Free Cracker on the market if standardized weights were in effect at the time this product was developed. In our consideration of new varieties of cookies and crackers, the additional costs for equipment for such items has strongly influenced our decision whether to market the item or not. Standardized weights would seriously limit our ability to introduce new items. I am sure Cinnamon Crisps, which directly or indirectly now provides jobs and earnings to hundreds of persons, and pleases millions of consumers, would not now be on the market. As we have previously noted, this would more seriously affect the smaller companies in our industry, those companies which are even less able than we to gamble on large expenditures for equipment for untried new products.

One of the reasons, as I said, for present weights on our packages, is availability of equipment. Any legislation which would force changes in weights dictated by equipment we have would result either in increasing prices of many items with no increase in value or in dropping many items from our line that people need or want. Either alternative would reduce employment.

I certainly hope I have made it clear, as forcefully as I can, that in considering this legislation Congress should also be prepared to take the responsibility for explaining to America's consumers why prices are increased, why products like salt-free crackers are discontinued and why employees' jobs are eliminated.

The second reason for marketing our products is weights not conveniently expressed as fractions of a pound is the quality of the product itself.

One of the products like this is our Deluxe Graham. It is marketed at a weight of 14½ ounces.

If this present product were to be marketed at either 12 or 16 ounces, the same equip-

ment changes noted earlier would have to be made.

However, I am frank to state that with this product, as with others in our present line, there would be an alternative. In its present package, by tampering with the quality of this item, we could reduce the weight of this product to 12 ounces. As anyone with baking experience can tell you, it would be possible with many products to meet standardized weights if product quality is a secondary consideration.

For example, by increasing the thickness of the graham wafer in this product, we could expand the volume of the finished piece so that 12 ounces of product would adequately fill this present package.

This is one example of many which I could cite in which the quality of the product itself dictates the weight of the finished package. If the quality of the product were unchanged, the cost to provide new equipment for packaging would be reflected in a higher price to the consumer with no increase in value; if the package weight were adjusted to meet a predetermined standard, the quality of the product would suffer. Either alternative would result in lower sales and fewer jobs at our bakeries, while depriving the consumer of quality products.

I have given two of the principal reasons why our products are marketed at present weights.

A third reason for varying weights is that we attempt to offer a broad line of our products to our customers at identical wholesale prices. When we offer products at the same price, in almost every case these products are offered for sale at identical retail prices. Since we can in no way influence the pricing policies of retailers, these retail prices may vary from store to store but within any one store comparable products are usually offered at identical prices.

This tendency to tailor package sizes so that a broad line of product can be sold at identical prices with varying weights is, I realize, a point at which the food industry is supposed to be particularly vulnerable. I will defend and support it.

The tendency to achieve uniformity has given the consumer instant recognition of comparative prices. Let's take two competing items that retail at 35 cents—product A at 15 ounces and product B at 15½ ounces. The consumer can see at a glance that she gets slightly more weight for her money in product B. Now comes weight standardization—12 ounces or 16, but not 15 and 15½.

The maker of product B sees immediately that if both went to 16 ounces, his product would sell for 36 or 37 cents, perhaps 2 cents a pound less than his competitor's product. At 12 ounces, he sees, there is a likelihood that both could sell for 28 cents. He immediately decides to take the surest competitive edge—up to 16 ounces.

Meanwhile, the maker of product A sees that by reducing his size to 12 ounces, he runs the least risk. There is every likelihood, he feels, that if his competitor does the same the price could be 28 cents for both. At the 16 ounces, he sees too, his product would certainly be priced 1 cent higher and perhaps even 2 cents higher than product B.

The happy day arrives. The consumer is faced with 12 ounces of product A at 28 cents and 16 ounces of product B at 37 cents. Unless we had pencil and paper, few of us could help her out and explain which product gives her more weight for her money. If we tried, we would have to point out that product B still costs a little less, but mysteriously now costs more per ounce than it used to.

I submit that nobody could prove to her, with or without pencil and paper, that this helped her out of the confusion she sued to have when comparing 15 ounces and 15½ ounces at the same price.

This is not just a hypothetical example. This points up a real problem posed by this proposed legislation.

Let's look at two of our best-selling products—Cocoanut Chocolate Drop cookies and Pecan Sandies. The first has 16 ounces; the second 15 ounces.

Although the retail prices of these products do vary from store to store, in any one store they are almost always priced the same at retail since the wholesale price is identical. Let's assume for the sake of this illustration that the price on both packages is 49 cents.

A housewife can tell at a glance that she gets 1 ounce more for her money by buying Cocoanut Chocolate Drops. At a glance, she knows that Pecan Sandies are slightly more expensive.

Now let's assume that a regulation were issued that the 15-ounce weight of Pecan Sandies was not reasonable, that it should be sold in multiples of quarter-pounds. The result would be to reduce the Pecan Sandies package to 12 ounces.

The new price structure would probably be Cocoanut Chocolate Drops, 16 ounces, at 49 cents; Pecan Sandies, 12 ounces, at 39 cents.

Whereas in the existing market the price difference is clear, under the new price structure the difference has become obscure. There are few of us who could determine readily the difference in value based on price alone. Actually, 12 ounces at 39 cents sounds almost deceptively like a lower price than 16 ounces at 49 cents, instead of 6 percent more.

Price comparison, where prices are identical and weights vary even by minute amounts are simple to interpret. Weight standardization, blessed as we are with a system that has 16 ounces in a pound, would produce nothing but confusion where understanding now prevails.

If standardization of weights is sought to remove confusion, I suggest it would not only fail in this but also introduce confusion where there is now what I would call instant understanding through price comparison.

It is obvious from testimony and published statements of the proponents of this type legislation that they believe confusion exists in the marketplace.

I submit that when a manufacturer embarks on a course such as we have in marketing these various cookie items, offering a great many varieties at varying weights but at identical prices, the result is that the decision-making process required of the housewife is made quite simply.

She is offered a great many varieties, not only by us but by many others, at identical prices. One has but to go into the cookie and cracker departments of modern stores, where many varieties are on display on stands as long as 40 to 50 feet, to notice how many of the cookie varieties are sold, in varying weights, at identical prices.

On the same day and on the same subject, Mr. Lyle C. Roll, president of Kellogg Co. gave his estimates of the costs which would be incurred as a result of product standardization under S. 985:

Section 3(c) authorizes the Secretary to promulgate regulations establishing reasonable weights in which cereal is to be distributed. In the testimony in 1961 and 1963 hearings, the economies made possible by packing a number of different products in packages of the same size were discussed. Products which were mentioned were biscuits and crackers, canned peaches, spaghetti and others.

The same economies are available in cereal. Kellogg Co. uses one size of package for six and one-half ounces of Special K high protein cereal, ten ounces of Sugar

Frosted Flakes, ten ounces of Pep Wheat Flakes, and fourteen ounces of Raisin Bran.

By putting a number of different cereals in the same sized package, we are able to make one packing line do the work of many without making changes in the machinery between runs on different products. The economies are considerable.

In 1963, we estimated it would require an additional \$3 to \$6 million to produce the same volume of cereals, depending on the standardized weights or volumes prescribed by the regulation. We now estimate that we would have to spend \$4,360,000 in capital expenditures and incur additional operating costs of \$2,050,000 a year, not counting the added depreciation, to achieve compliance with a standard net weight regulation.

This is why net weights come out occasionally in fractions of ounces. For instance, if we want to take advantage of the economies of using this package size for Special K, we can either label it "7 ounces," in which case we are going to regularly have short-weight packages which is both illegal and bad business; or we can label it "6 ounces" fill the package and underclaim the contents, which would be a misrepresentation; or we can honestly label it "6½ ounces." We think this last choice, the honest one, is the only way.

Another package size is used for seven different products ranging from 5 ounces of our newest product, Corn Flakes and Bananas, to 18 ounces of Bran Buds. I brought along one of the carton board sheets on which we have printed cartons and made the cuts and creases necessary for forming the cartons.

As you can see we have printed cartons for 8½ ounce Cocoa Krispies, 18 ounces Bran Buds, and 1 pound All-Bran—all in one operation. Because the cartons are all the same size, the cartons fit together with a minimum of waste. By putting three different cereal cartons on this sheet we are able to get longer runs on our presses which is necessary to efficient operation.

We have had some experience in other countries which indicates the effect of a requirement that all packages be of specified standard weights.

We have subsidiary companies operating in both South Africa and Mexico. Both subsidiaries were organized about the same time. Each operates a cereal plant, both of which were built and put into service around 1952. The plants are roughly comparable in size, and the packing facilities in the two plants, with two packing lines for family-size packages in each plant, have the same capacity and are essentially the same.

A South African law requires cereal to be distributed at retail only in packages of certain specified weights. Mexico does not. As a result, while in Mexico it takes only 3 different package sizes to put out 9 different product sizes for family cereal packages, it takes 6 different package sizes to put out 12 different product sizes in South Africa.

We are able to keep the number of package sizes to six in South Africa only by packing one product in a package which is too small and which causes undesirable crushing of the product in distribution, and by packing other products in packages which are too large for the quantity of cereal packed in them.

There are many more occasions in South Africa when the line is down while changes are made to run a different package size. Each time the line is stopped, efficiency suffers and productivity decreases.

For example, in 1964 it took 89 man-hours of packing-room labor at the Mexican plant to pack 1,000 cases of 24 packages each. To accomplish the same thing at the South African plant took 134 man-hours of packing room labor, or 51 percent more.

Requirements of mechanical labor in the South African packing room were much higher also. A substantial proportion of this is attributable to the need for a greater number of packing line changes.

The South African plant required 4.89 man-hours of mechanical labor to produce 1,000 pounds of food, while the Mexican plant required only 1.41 man-hours of mechanical labor, less than one-third of that required by the South African plant—to produce the same volume of cereal.

EFFECT OF STANDARDIZATION OF PACKAGES

We believe that the standardization of package sizes and shapes inhibits the development of improved packaging.

Our new bowl package for individual servings, which consists of a plastic disposable bowl with a removable top, is an example of this. I have a few here. You can see the convenience. All you have to do is take off the top and there's your cereal ready in a disposable bowl. We have great hopes for this package among users such as airlines and campers where convenience is paramount.

If standard shapes had been required, the standard shape of the cereal package would probably have been rectangular. Before introducing this new shape package we would have had to persuade the Secretary to change the regulations. With notice in the Federal Register, hearings, and the other usual preliminaries we would have incurred considerable expense involving time, and more seriously, publicity before the legal path for this different package shape could have been cleared.

All of our competitors would have had a clear idea of what our plans were. Consequently, whatever advantage we might have gained from a desirable innovation would have been greatly reduced and, perhaps, lost altogether.

This assumes that the Secretary will allow such a package. It is possible that the Secretary, applying the "rational comparison" test of section 3(c), would allow no deviation from the standard package. The risks of package development would greatly reduce the incentive for any cereal company to improve its packaging.

In my earlier comments, I described the wide variation in cereal products, even though the cereal industry encompasses a relatively narrow spectrum of products as compare with the canned fruit and vegetable industry or the bakery industry.

Even so, writing standards for package sizes and shapes, for servings, for net weight statements, for package size designations, and for illustrations on cereal products is a tremendous task to ask of any agency.

Under S. 985, as reported, the bottlers of soft drinks who distribute their products in returnable bottles, according to the bill's proponents, are exempted from the effects of product standardization. This is presumably because of the vast amount of capital tied up in returnable bottles. While the case of soft drink bottlers may be unique it does show what will happen to other segments of the food industry. Mr. John R. Strachan of the Albany Pepsi Co., Inc., expressed his views thusly:

Soft drinks are now distributed in many size returnable bottles. This development has been the result of consumer demands and resulting competitive pressures for varying size packages, depending on circumstances, whether a desire for a single drink from a vending machine, or for a bottle which will hold many servings for thirsty children at home. In my own plant, for instance, there are no less than six size bottles in which the various products handled in my plant are bottled.

If regulations were promulgated specifying the sizes in which my bottles could be bottled, from and after a certain date, my investment in all nonconforming bottles would be forthwith destroyed and I would have on short notice to replace them with new bottles, or other sizes, not to mention making necessary adjustments or replacements at considerable expense to my machinery and my trucks and my vending machines, and the cost of the new cases and cartons I would have to purchase.

It is hard to know how much that loss would amount to. That it would be substantial is obvious; that it might even throw me in bankruptcy would be a real possibility.

The total investment in my plant in Albany is around \$1,100,000 of which approximately 43 percent is an investment in returnable bottles.

My business, as you will appreciate, is a highly seasonable one, which necessitates a large inventory of bottles to take care of demand during the hot summer months. I am budgeting the purchase of approximately \$100,000 this year for new bottles for replacement purposes and to take care of increased sales.

I do not want unduly to belabor the point, but if, on top of these expenditures, I had to replace even one-third or one-half of my bottle stock at one time, I doubt if my business could stand the strain, and I might feel that total liquidation of my business at a substantial loss from what it is now worth, would be the only prudent course.

Even if, should the bill become law, the Secretary does not immediately promulgate any such damaging regulation, the threat thereof would always remain, and this would have the undoubted result of making it more difficult to find money for investment in a business subject to such a threat of unpredictable and costly action.

Mr. President, I yield the floor, and yield back such time as I may have remaining.

AMENDMENT NO. 590

The PRESIDING OFFICER. The Senator from Illinois is recognized. How much time does the Senator from Illinois yield himself?

Mr. DIRKSEN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DIRKSEN. Mr. President, I call up amendment No. 590, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 16, line 13, delete all of said lines 13, 14, 15, 16.

Mr. DIRKSEN. Mr. President, section 4(a)(2) of S. 985, the so-called truth in packaging bill is presented to this body as a new step in regulating the packaging practices of our country's manufacturers of consumer commodities. This section purports to set a new standard for the listing of contents on packages offered for sale. It proposes that the appropriate Government agency or department shall issue regulations which will require that:

The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label.

Section 403 of the Food, Drug, and Cosmetic Act presently provides:

A food shall be deemed to be misbranded—
(c) if in package form unless it bears a label containing . . . (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical form . . .

(f) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Pursuant to this same law the Secretary of Health, Education, and Welfare has promulgated specific regulations which the proponents of S. 985 tell is a necessary part of this pending bill. Section 1.8 of the food, drug, and cosmetic regulations, part I, reads as follows:

(e)(1) The statement of the quantity of the contents shall reveal the quantity of food in the package, exclusive of wrappers and other material packed with such food.

(2) The statement shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. But if no general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity.

(f)(1) A statement of weight shall be in terms of the avoirdupois pound and ounce. A statement of liquid measure shall be in terms of the United States gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and, except in case of frozen food which is so consumed, shall express the volume of 68° Fahrenheit (20° centigrade). A statement of dry measure shall be in terms of the United States standard barrel and its subdivisions of third, half and three-quarters barrel. However, in the case of an export shipment, the statement may be in terms of a system of weight or measure in common use in the country to which such shipment is exported.

(2) A statement of weight or measure in the terms specified in subparagraph (1) of this paragraph may be supplemented by a statement in terms of the metric system of weight or measure.

(3) Unless an unqualified statement of numerical count gives accurate information as to the quantity of food in the package, it shall be supplemented by such statement of weight, measure, or size of the individual units of the foods as will give such information.

(g) Statements shall contain only such fractions as are generally used in expressing the quantity of food. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places.

(h)(1) If the quantity of food in the package equals or exceeds the smallest unit of weight or measure which is specified in paragraph (f) of this section, and which is applicable to such food under the provisions of paragraph (e)(2) of the section, the statement shall express the number of the largest of such units contained in the package (for example, the statement on the label of a package which contains one quart of food shall be "1 quart", and no "2 pints" or

"32 fluid ounces"). Unless the statement is made in accordance with the provisions of subparagraph (2) of this paragraph. Where such number is a whole number and a fraction, there may be substituted for the fraction its equivalent in smaller units, if any smaller is specified in such paragraph (f) (for examples, $1\frac{3}{4}$ quarts may be expressed as "1 quart $1\frac{1}{2}$ pints" or "1 quart 1 pint 8 fluid ounces"; $1\frac{1}{4}$ pounds may be expressed as "1 pound 4 ounces"). The stated number of any unit which is smaller than the largest unit (specified in such paragraph (f)) contained in the package shall not equal or exceed the number of such smaller units in the next larger unit so specified (for examples, instead of "1 quart 16 fluid ounces" the statement shall be $1\frac{1}{2}$ quarts" or "1 quart 1 pint"; instead of "24 ounces" the statement shall be " $1\frac{1}{2}$ pounds" or "1 pound 8 ounces").

(2) In the case of a food with respect to which there exists an established custom of stating the quantity of the contents as a fraction of a unit, which unit is larger than the quantity contained in the package, or as units smaller than the largest unit contained therein, the statement may be made in accordance with such custom if it is informative to consumers.

(i) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

I have read that very lengthy portion of the regulations to impress upon this body the extent of the coverage of existing law and the existing regulations. If that were not enough section 1.9 of the same regulations deals with the prominence of the words or statements required or permitted to be printed on the label. This very detailed regulation lays out some demanding requirements:

Section 1.9 Food; labeling; prominence of required statements. (a) A word, statement, or other information required by or under authority of the act to appear on the label may lack that prominence and conspicuousness required by section 403(f) of the act by reason (among other reasons) of:

(1) The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

(2) The failure of such word, statement, or information to appear on two or more parts or panels of the label, each of which has sufficient space therefor, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

(3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement, or information;

(4) Insufficiency of label space (for the prominent placing of such word, statement, or information) resulting from the use of label space for any word, statement, design, or device which is not required by or under authority of the act to appear on the label;

(5) Insufficiency of label space (for the

prominent placing of such word, statement, or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement, or information; or to any design or device; or

(6) Smallness of style of type in which such word, statement, or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed, or graphic matter.

I have read these quite lengthy regulations lest any of us in this body have not become familiar with them during the past 5 years during which time, the so-called truth-in-packaging legislation has been before us.

Some critics of the existing laws have pointed to the fact that presently there is no requirement that the statement of contents must be on the front panel of the package. Well, this question does raise some difficulties. We received testimony to the effect that reasonable people may disagree as to which side is the front or side or back of a given package. Since this question does give so many people trouble let me say this. I intend to introduce a measure at some time in the future which would amend section 403 (e) (2) so that it would require that the statement of quantity be displayed upon the front, main, or principal panel of the package and in a type size not less than a given point type.

It would appear that if we have a special problem which we can isolate, let us deal with that problem directly. Wise and helpful legislation should be aimed directly at the problem areas. Charging pellmell into the area of Federal regulation over consumer commodity marketing is neither wise nor constructive. Real and tangible aid to the consumer, in terms of lower prices should be the objective, not just an all-fronts skirmish conducted under the mislabeled banner of "consumer interests."

I am attempting to direct attention to the number of regulations under the existing law. Why the producers, manufacturers, and fabricators must be burdened with more and more regulations is a little more than I can see. It is for that reason that I have offered amendment No. 590.

I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 2 minutes.

Mr. HRUSKA. Mr. President, it has been a contention of many witnesses during the course of lengthy hearings on the bill, both before the Committee on the Judiciary and the Committee on Commerce, that the present law and regulations are more than adequate to take care of virtually all the situations dealt with in the pending measure.

Witnesses have repeatedly stated that both the Federal Trade Commission and the Food and Drug Administration have ample authority under existing law.

I believe that it would serve a good purpose if I were to insert at this point in the RECORD, not the material to which the Senator from Illinois has referred, but other statutory provisions and regulations dealing with misbranding, deception, misrepresentation, mislabeling, and other similar practices.

I ask unanimous consent that a memorandum containing a discussion of various statutory sections and regulations be printed in the RECORD.

There being no object, the memorandum was ordered to be printed in the RECORD, as follows:

FOOD AND DRUG ADMINISTRATION AUTHORITY UNDER PRESENT LAWS

Throughout the hearings before the Senate Antitrust and Monopoly Subcommittee on S. 287 in the previous Congress and before the Senate Commerce Committee on S. 985 in this Congress, witnesses have repeatedly stated that both the Federal Trade Commission and the Food and Drug Administration have ample authority under existing laws. It would do well at this time to cite the present FDA Act and some of the regulations which are pertinent to the present bill, S. 985:

"Sec. 403. A food shall be deemed to be misbranded—

"a. If its labeling is false or misleading in any particular.

"b. If it is offered for sale under the name of another food.

"c. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word 'imitation' and, immediately thereafter, the name of the food imitated.

"d. If its container is so made, formed, or filled as to be misleading.

"e. If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

"f. If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"g. If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations as provided by section 401, unless (1) ingredients (other than spices, flavoring, and coloring) present in such food.

"h. If it purports to be or is represented as—

"1. a food for which a standard of quality has been prescribed by regulations as provided by section 401, and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or

"2. a food for which a standard of standards of fill of container have been prescribed by regulations as provided by section 401, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

"i. If it is not subject to the provisions of paragraph (g) of this section unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such in-

redient; except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: *Provided, That,* to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Secretary."

The Food and Drug Administration issued general regulations for the enforcement of the Federal Food, Drug and Cosmetic Act, which regulations are amended from time to time. Pertinent regulations pertaining to food can be found in sections 1.7, 1.8, 1.9, and 1.10. Excerpts from these regulations would be of interest at this point:

"1.7 Food; labeling; misbranding.

"a. Among representations in the labeling of a food which render such food misbranded is a false or misleading representation with respect to another food or a drug, device, or cosmetic.

"b. The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

"1.8 Food; labeling; required statements; when exempt.

"a. Where a food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as "Manufactured for and Packed by ----," "Distributed by ----," or other similar phrase which expresses the facts.

"b. The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

"c. If a person manufactures, packs, or distributes a food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

"d. The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

"e. (1) The statement of the quantity of the contents shall reveal the quantity of food in the package, exclusive of wrappers and other material packed with such food."

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. DIRKSEN. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was rejected.

AMENDMENT NO. 591

Mr. DIRKSEN. Mr. President, I call up my amendment No. 591, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 16, line 17, delete all of said line 17, to and including page 17, line 11.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. I yield myself 5 minutes.

Mr. President, this amendment would strike out all of section 4(a) (3) including subsections (A), (B), (C), and (D). This is a mandatory section which would direct the appropriate department head or agency head to issue regulations which would provide the following:

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act and which shall provide that:

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) if expressed in terms of weight or fluid volume, on any package of a consumer commodity containing less than four pounds or one gallon, shall be expressed in ounces or in whole units of pounds, pints, or quarts (avoirdupois or liquid, whichever may be appropriate);

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

To the extent that this provision parallels existing law it is redundant and therefore unnecessary. To the extent that it goes beyond existing law it is potentially dangerous. Section 403(f) of the Food, Drug, and Cosmetic Act presently providing:

A food shall be deemed misbranded if in any word, statement, or other information required * * * this Act to appear on the label * * * is not prominently placed thereon with such conspicuousness * * * and in such form as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Section 1.9(c) of the Food and Drug Administration regulations under the Food, Drug, and Cosmetic Act states:

Information required by * * * the Act to appear on the label may lack that prominence and conspicuousness required by section 403(f) of the Act by reason * * * of smallness or size or type in which such * * * information appears * * *

Yet another law, section 5(a) (1) of the Federal Trade Commission Act provides:

Unfair methods of competition in commerce, and unfair and deceptive acts in commerce, are hereby declared unlawful.

As one witness before the Senate Commerce Committee pointed out:

"If the lack of prominence of the net quantity statement resulted in an unfair or misleading deceptive act, this provision of the Federal Trade Commission Act could be utilized in prohibiting such act."

Certainly the proponents of this bill, S. 985, cannot deny that to a great extent the present law already covers most of

the area which S. 985 is advertised as reaching. The real danger then lies in those areas where S. 985 goes beyond existing law. Advocates of this bill assert that their intent is only to reach the small segment of industry which utilize deceptive practices. But this particular section of S. 985 opens a brand new area for Federal administrators to exercise what may be devastating control over large areas of our economy.

The testimony of Mr. Harrison F. Dunning, president of Scott Paper Co., was very well received by the Senate Commerce Committee, and the marketing practices of his company received praise from many proponents of this bill. In his testimony he referred to the question of existing legislation in the following remarks:

I would remind this committee also that Commissioner Larrick of the Food and Drug Administration and Commissioner Dixon of the Federal Trade Commission, in their earlier testimony before the Subcommittee on Antitrust and Monopoly, both made it very clear that there is sufficient law on the books today to prevent any clearly deceptive practice in labeling or packaging and that they have ample power under present law to deal with such activities. They claimed they need the support of this bill to help them to eliminate confusion and thereby be able to prosecute their activities without the delays of formal rulemaking, or the necessities of case-by-case prosecution, or the necessity for judicial reviews on the record.

In other words, both of these agencies left the implication that they would like to be able simply to halt a practice solely on the basis of their judgment and wisdom and without the company involved having the privilege of making an issue of the matter. If this grant of arbitrary power to governmental agencies is the concept of the America that is to be, then it will be a dramatic departure from the principles that have made this country great.

As section 4(a) (3) (A), (B), (C), and (D) are worded, the provision is mandatory and the fears of Mr. Dunning appear to be well founded.

I believe that when this measure goes to the House of Representatives for further consideration, they will have before them a body of data from which they can work, and certainly can work their will on it; and if we need a bill of this character at all, at least it will be a good bill, and not an onerous piece of legislation to fall with such burdensome effect upon the business fraternity of the country.

The PRESIDING OFFICER. Does the Senator yield back his remaining time?

Mr. DIRKSEN. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was rejected.

AMENDMENT NO. 592

Mr. DIRKSEN. Mr. President, I call up my amendment No. 592, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 17, line 12, delete all of said lines 12 through and including line 24.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 minutes.

Mr. DIRKSEN. Mr. President, section 4(b) of S. 985 reads as follows:

No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

Apparently this section is aimed at a practice which certain individuals feel is a deceptive practice. This includes the use of such statements as "jumbo gallon" or "giant quart." Whether or not the use of such phrases has a tendency to confuse the customer may be debatable.

Again let me refer to existing legislation. Section 403(a) of the Food, Drug and Cosmetic Act provides:

A food shall be deemed to be misbranded—if its labeling is false or misleading in any particular.

Section 5(a) (1) of the Federal Trade Commission Act provides for nonfood consumer commodities:

Unfair methods of competition in commerce, and unfair and deceptive acts in commerce are hereby declared unlawful.

Certainly this provision could be used to curtail the use of qualifying statements which are deceptive to the point of being regarded as unfair competition.

One witness developed the following information for the Senate Commerce Committee:

All packaged commodities are covered by the requirement of the model State weights and measures regulations, which require that in no case shall a declaration of quantity be qualified by the addition of the word "when packed" or any words of similar import nor shall any unit of weight, measure, or count be qualified by any term (such as "jumbo," "giant," "full," or the like) that tends to exaggerate the amount of the commodity. (Sec. 3.9 of the Model State Weights and Measures Regulations)

This model law has been adapted in 15 States and is being considered in others.

Primarily this section is one more example of pushing forth a mislabeled piece of legislation in an attempt to let the consumer think he is getting more than he really is. It is much like putting all of the matadors and the entire afternoon's roster of bulls in the ocean at the same time while encouraging the public to attend the melee by advertising the event as a one of dramatic skill.

If there is a need to curtail the use of qualifying words attached to statements of net quantity of statements let us work with the laws that we have now. I suggest that we amend section 403 of the

Food, Drug, and Cosmetic Act. This could be done by adding a subsection (n) to that section wherein we could prohibit the use of such qualifying statements.

Mr. President, what I am seeking here, since in the light of existing law and the regulations that now abound in great quantity these provisions would not be necessary, is that this authority should not be granted.

I yield back the remainder of my time.

Mr. MAGNUSON. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois.

The amendment was rejected.

AMENDMENT NO. 593

Mr. DIRKSEN. Mr. President, I call up my amendment No. 593, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 16, line 10, delete all of said lines 10, 11, 12.

The PRESIDING OFFICER. Who yields time?

Mr. DIRKSEN. Mr. President, I yield myself 5 minutes.

Mr. President, I wish to place this amendment before the Senate to S. 985 as reported by the Senate Commerce Committee. It would eliminate from the proposed bill a section which when read together with other sections of the bill, would serve absolutely no purpose if its intent is as the authors state.

The particular section to which I refer is section 4(a) (1) which is found on page 16, lines 10, 11, and 12. This particular provision in S. 985 provides that in connection with section 6 of S. 985, regulations may be promulgated by either the Secretary of the Department of Health, Education, and Welfare or the Chairman of the Federal Trade Commission which would control certain aspects of the labeling of various commodities. It is aimed specifically at the placement of the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor.

Perhaps I may be so naive as to read a portion of section 403 of the Food, Drug, and Cosmetic Act which is found in title 21 of the United States Code at section 343:

Section 40—Misbranded Food

A food shall be deemed to be misbranded.—

- a. If its labeling is false in any particular
- b. If it is offered for sale under the name of another food
- c. If in package form unless it bears a label containing

- (1) the name and place of business of the manufacturer, packager or distributor;

Does S. 985 have some hidden mystic which can improve on that? Is not the language perfectly clear? The Secretary of Health, Education, and Welfare certainly must have understood it. Located in title 21 of the Code of Federal Regulations, chapter I, subchapter A, part I, are the regulations which he has issued for the purpose of amplifying that law. Pertinent to the listing of the manufacturer, packer, or distributor is a portion of section 1.8:

Food: Labeling; required statement; when exempt.

- a. Where a food is not manufactured by

the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as Manufactured for and Packed by -----, Distributed by -----, or other similar phrase which expresses the facts.

- b. The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

- c. If a person manufactures, packs, or distributes food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

- d. The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

Unless there is some heretofore unexplained reason for its inclusion, I can see no justification for it. Only excess verbiage could result—with confusion its by-product. I, therefore, submit this amendment to withdraw section 4(a) (1) from S. 985.

Existing law adequately covers this area. The manufacturer, packer, or distributor is presently required to identify the product. The label now must accurately represent the contents. It is considered to be misbranded if it provides a label which is a "false or misleading representation with respect to another food or a drug, device, or cosmetic." (F.D.C. Regs., part I, section 1.7(a).)

Furthermore, the present regulations issued by the Secretary of Health, Education, and Welfare provide that:

The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling. (F.R.C. Regs. Part I, Section 1.7(b)).

Why this should be considered insufficient is beyond me. I would, therefore, urge that this provision be deleted from S. 985 as reported.

Mr. President, I wish to include in the RECORD a statement made by Gale P. Gotschall, who is presently the assistant general counsel for Federal-State cooperation, Federal Trade Commission.

This is an address made under the title of "Protection of Consumers From Deceptive and Other Unfair Business Practices." It was made to the Council on Consumer Information, 12th annual conference, at the Sheraton-Jefferson Hotel, St. Louis, Mo.

Mr. Gotschall sets forth with some eloquence and not without little pride, what they have done in this field and the authority they have to exercise wide discretion in this entire field.

I think that the statement should be printed in the RECORD along with my remarks on the amendment, to be sure that the entire body of literature will be complete with respect to the bill.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PROTECTION OF CONSUMERS FROM DECEPTIVE AND OTHER UNFAIR BUSINESS PRACTICES

(Remarks of Gale P. Gotschall, Assistant General Counsel for Federal-State Cooperation, Federal Trade Commission, Before Council on Consumer Information, Twelfth Annual Conference, Sheraton-Jefferson Hotel, St. Louis, Mo.)

With six months of experience behind me as the Federal Trade Commission's Assistant General Counsel for Federal-State Cooperation, I am gladdened by this opportunity to talk with you about what we have accomplished thus far, and what our hopes and aspirations are, in this office. The views expressed are my own and not necessarily those of the Commission.

It is a particular pleasure to be here, reporting to a great national organization devoted to the consumer interests. Since you are a non-profit organization serving consumers through conferences, newsletters, and informative pamphlets, and guided by the highest traditions of public service, we have many things in common.

The Federal Trade Commission probably has the broadest consumer protection responsibilities of any agency of government. Because our responsibilities are so broad, and our legislative mandate is very general in scope, we sometimes get criticized. We get criticized both by the businessmen who say we are doing too much; and we get criticized by consumers and consumer organizations such as yours because, they say, we are not doing enough. Perhaps when we hear those criticisms coming at us in about equal intensity, we are most nearly "on course." In other words, we expect and we invite criticism. We need to know from you, firsthand, what you deem at any given time to be the most pressing consumer problems. We want to consider and discuss with you whether everything that can be done is being done to alleviate those problems, and we want your help in defining those unmet problems which may call for the Commission to recommend the enactment of new legislation, either at the Federal or the State level.

Because the consumer's voice is sometimes weak and inarticulate, we are particularly attentive when we confer with a group such as yours, a group which devotes its life to the consumer interest.

We who are gathered here today have a vital interest in protecting consumers from false advertising and other deceptive practices which would victimize them in the marketplace. But we have a broader interest.

We are concerned with maintaining high levels of employment and income. We know that many consumer problems can be alleviated by adequate income. And adequate consumer income is inextricably intertwined with business prosperity. We must have an economic environment in which the businessmen can expect to reap fair profit through providing the goods and services which we need, an environment which will encourage him to continue his extraordinary accomplishments in providing us with an ever-widening range of consumer goods. We want him to continue inventing, creating demand for, and educating us to the use of, consumer products that we have not even heard of today.

In other words we all are interested in preserving and strengthening the competitive system of free enterprise which has made America great. We know that competitive enterprise, restrained only as necessary to protect the interests of the general public, holds greatest promise for continued progress toward achieving our hopes and aspirations as a great Nation.

As Chairman Paul Rand Dixon recently said, we at the Federal Trade Commission are not experts in telling businessmen how they should run their business. We rely on their ingenuity to create the types of goods

and services which will meet our needs as consumers. Our job is the less glamorous one of establishing the guideposts of what methods of competition are unfair, and what practices are unfair or deceptive to consumers. To eliminate such methods and practices, by persuasion, by education and if necessary by enforcement action, is the purpose of the Commission.

Unheralded is the vast majority of businessmen who run an honest shop and treat their customers and competitors fairly. Their self-discipline is the strength of our free enterprise system. But unfortunately there are others who will take advantage of them and of the consumer. To discuss that problem is the purpose of our being here today.

The Federal Trade Commission has a broad mandate to prevent all those unfair methods and deceptive acts or practices which would injure the businessmen or the consumer. But the Commission's authority, by and large, extends only to those acts or practices used in interstate commerce.

Now we are hoping, through our office of Federal-State Cooperation, to encourage and aid the State Governments to take action against such practices. Our purpose is to aid local initiative in meeting rising demands from the public for more adequate protection against unfair and deceptive business practices. If such practices can be stopped at the State or local level, before they grow into problems of interstate or national significance, the need for federal action will be minimized. And judgments about what constitutes unfair or deceptive practices will so far as possible be decentralized to the people who are most directly affected.

We are engaged in three principal lines of cooperative effort: First, we are endeavoring to achieve widespread dissemination of information about what types of practices have been declared unfair or deceptive. We hope consumer information specialists such as yourselves, and officials of State and local government, will have comprehensive knowledge of the types of practices which, if used in interstate commerce, should be brought to the attention of the Federal Trade Commission for corrective action.

If you have clear knowledge of our functions, and the public services available from us, then you will know when to call on us and we can be of greatest service to your constituency.

As the second step in our cooperative effort, when we encounter unfair or deceptive practices that are beyond the Commission's jurisdiction because they were used only in a single state and not in interstate commerce, we bring them to the attention of State or local officials.

I might say that complaints of that character come to us not only from consumers; they come also from businessmen who would prefer to operate on a higher level of ethics than the level to which they are being forced by local competition. And they come to us from operators of interstate businesses who by complying with federal law are losing trade to intrastate concerns which divert trade to themselves by use of false advertising or other misleading or unfair practice.

The problem is that many of the States do not have adequate laws to deal with unfair or deceptive trade practices. The Commission will, upon invitation, cooperate with those States in the drafting of legislation. This is the third step in our program of cooperation.

It is our hope that the States will enact legislation, as nearly uniform as possible, to prohibit the types of unfair and deceptive practices which would be unlawful if coming within the interstate jurisdiction of the F.T.C. Adoption of uniform state legislation would facilitate trade and commerce and consumer understanding of business practices in our highly mobile society, and would

establish minimum standards to prevent unfair competition and deceptive or monopolistic practices.

Speaking of mobility, I read recently that 3.3% of our people move from State to State each year. This suggests that over a period of ten years, as many as 1/3 of all the people will take up residence in a State other than their present one. Think of the confusion and misunderstanding which can be avoided if minimum standards of ethical business conduct can be invoked to aid these people as they move about, and how far this would go to stimulate healthy competition and facilitate consumer purchasing in our economy.

If the States will adopt language paralleling the Federal Trade Commission Act to prevent "unfair" and "deceptive" acts and practices, they can draw upon fifty years of experience of the Commission and the federal courts in interpreting similar language. This is a great reservoir of legal precedent, and of "consumer information" if you will, which should be of inestimable aid in furthering protection of the consumer and the businessman.

Another advantage of delineating the prohibited areas of conduct by use of the general terms "unfair" and "deceptive" is that these terms encompass all lines of business, the sale of goods as well as services, and all types of practices which may be detrimental to competition or injurious to consumers. This language includes, but is not limited to, practices such as "bait" advertising, deceptive guarantees, fictitious pricing, oral misrepresentation by house-to-house salesmen, misbranding, sale of reconditioned products as new, false claims as to quality or performance of products, agreements among competitors to fix prices or restrict competition, and conspiracies to eliminate a competitor.

Such general language not only deals with unfair or deceptive practices as they now exist; it is flexible enough to cope with novel practices, or variations on old practices, which sharp operators constantly are inventing in their ceaseless efforts to eliminate competition unfairly or to cheat the public.

To shield the administering official from pressure to become involved in matters of private controversy, such as alleged trademark infringements or determinations of rights or obligations under private contracts, he would be authorized to institute action "when in the public interest", similar to a provision in the Federal Trade Commission Act. It is doubtful that you, as taxpayers, would be willing to provide legal service, at public expense, to every person, whether he be businessman or consumer, who thinks he has been treated unfairly or unjustly in a business dealing. Only where it appeared that appreciable numbers of the public had an interest in the matter, would the public official intercede.

We would suggest that the public official be authorized to obtain injunction, similar to the Federal Trade Commission's cease-and-desist order, to halt a violation. As long ago as 1924 the U.S. Supreme Court held that public action is warranted to halt an unfair practice which injures competition by deceiving consumers, and that in such a case, under the Federal Trade Commission Act, the burden of avoiding such practice is on the businessman. It is not necessary to prove that the businessman acted wilfully or with intent to mislead. This thesis was spelled out even more specifically by a U.S. Court of Appeals in 1941 when it said: "Whether or not the advertiser knows the representation to be false, the deception of purchasers and the diversion of trade from competitors is the same. The purpose of the statute is protection of the public. . . ." (Federal Reporter, Second Series, Volume 116, page 578).

We would propose that for violation of a court injunction against unfair or deceptive practice, the violator be subject to civil

penalties collectible on behalf of the people by the enforcement official. Under the Federal Trade Commission Act, such penalties are in amounts up to \$5,000 for each violation, and for each day of violation.

The administering official for such a statute would need investigative authority to determine when a violation had occurred or was about to occur, similar to the authority of the Commission under the Federal Trade Commission Act.

Statutes of this character which I just described already have been enacted in the States of Washington and Hawaii.

Consideration is also being given to proposal that the States would enact legislation to regulate or control the activities of hearing aid fitters and dealers, and persons engaged in the sale of correspondence and vocational courses of instruction. Since fitters and sellers of hearing aids commonly are engaged only in local commerce, within a single state, we think regulation of them at that level is appropriate. The regulation could be similar to that applicable to occupations and professions such as that of watch repairmen, barbers, optometrists, podiatrists, plumbers, etc., with representatives of consumers or the general public to be included in the regulatory or administering agency.

The need to assure minimum quality standards for correspondence and vocational courses becomes more acute in view of the number of such courses being offered to train persons in occupations related to public health, such as medical technician and practical nurse. And the States have a vital interest in making sure that poor or other disadvantaged persons who seek to improve their occupational skills are not victimized by sharp operators who lack adequate training, experience or physical facilities to teach what they purport to teach. Thus we would be willing to cooperate with the States in closer regulation and control of activities of correspondence and vocational schools.

These are some of the subjects which have been concerning us in our office for Federal-State Cooperation. We welcome your comments, advice and suggestions in regard to these or any other matters which you think should have our attention.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. DIRKSEN. I yield 5 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, during the consideration of this type of legislation—and again I say, for about 3 years it was before the Committee on the Judiciary—there was testimony given as to the applicable statutes to situations that are covered by the language which the Senator, by his amendment, seeks to delete.

Those witnesses to whom I wish to refer include George P. Larrick, who was at that time Commissioner of the Food and Drug Administration, a career employee of great distinction during his many years of service in the Food and Drug Administration.

The witnesses also included Paul Rand Dixon, Chairman of the Federal Trade Commission.

Mr. President, I ask unanimous consent that excerpts of their testimony pertinent to this particular amendment be inserted in the RECORD at this point.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). Without objection, it is so ordered.

The excerpts are as follows:

Testimony of Commissioner George P. Larrick, Food and Drug Administration, Department of Health, Education and Welfare,

beginning on page 795, Part 3 of the Printed Hearings, "Packaging and Labeling Practices", March 20, 1962.

"The Federal Food, Drug, and Cosmetic Act, enacted on June 25, 1938, is fundamentally a consumer measure. In addition to requiring that foods be clean, sound, and wholesome, it has provisions designed to inform the consumer about the food in the package and thus permit her to make intelligent selections at the marketplace.

"The law has, for example, a provision for the establishment of standards of identity, quality, and fill of container. In establishing any such standard there is a clear-cut requirement that such action must be one which will promote honesty and fair dealing in the interest of the consumer.

"In addition to prohibiting false or misleading statements in the labeling of foods—and this includes all written, printed and graphic matter accompanying food when shipped interstate and when held for sale afterward, not just the label on the package—the law contains several provisions for supplying positive information. I would like to discuss some of these which have been of previous interest to this committee.

"They include the requirement for declaring an accurate statement of the quantity of the contents; a prohibition against deceptive packaging; the requirements for declaring ingredients, including artificial flavors, artificial colors, and chemical preservatives; and requirements dealing with foods for special dietary use.

"All of these are designed to give the consumer a great deal of information about the food in the package, and there is a provision which states that any information required by the law to appear on the label must be so printed, conspicuously, as to be likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

"Back in 1938, when the law was passed, we had the idea that this requirement of conspicuousness, as set forth in section 403 (f) of the act, meant that all required statements should be printed in easily readable type on the main display panel of the label, right along with the brand name and the name of the food, and that if the package label was so made that there were two such main panels the required information should be set forth on each one.

"Our very first regulation in this area provided that the required labeling information may lack that prominence and conspicuousness required by the law by reason, along with other reasons, of—

"The failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase."

"This, of course, is not a positive requirement for front-panel labeling, and we were met with the argument that there were other ways of achieving the objectives of the statute. * * *

"We should, of course, make it plain that a very high percentage of the food packages are made up properly and one might conclude that there is no immediately obvious reason why food products should not all be honestly and clearly labeled and packaged, since the law calls for truth in packaging and violators are subject to its penalties. It is obvious, however, that these requirements as they apply to food products are but one part of the entire Food, Drug, and Cosmetic Act and when funds are insufficient to cover all areas where there are problems, that they cannot have that degree of priority which is warranted by matters involving health and safety, or those involved in the production of foods from unfit raw materials or under insanitary conditions.

"It should, we believe, be remembered that the law, while requiring a statement of ingredients on the labels of fabricated foods other than certain items for which stand-

ards of identity have been established, does not contemplate that the label declaration of ingredients shall have any bearing on the safety of those ingredients. All food ingredients are required to be safe, and the fact that an unsafe ingredient might be used with a truthful label declaration of its presence would not mitigate against a charge of adulteration against that food.

"Thus, in our enforcement activities, we have applied the funds appropriated to us so that all of the time and funds necessary to deal with matters involving the public health are given first priority. Next come those involving filth and insanitation. What little time was left was to be devoted to the so-called economic class of violations. It is no secret that for a number of years the appropriations available to the Food and Drug Administration, coupled with the problems in the first two categories I mentioned, have left very little time to be devoted to this third, or economic, category.

"We have read the testimony of those who stated that the consumer doesn't really care about labeling of foods. With this view we do not agree. Thoughtful and prudent shoppers do care; in many instances they make their views known by writing, not only to us, but to Members of Congress as well.

"We have regretted our inability to deal adequately with violations in this area and have long expressed the hope that we could have the funds to let us do a real job to correct the many violations we believed to warrant attention, even under the terms of the present law.

"With additional funds available last year, we were able to institute an active program and this has been resumed during the present calendar year. Assuming that the appropriation requested in the President's budget for fiscal year 1963 is approved by the Congress, we will be in a position to devote enough attention to this area to see that there is no opportunities for retrogression from the corrections already made and which are being made. Our 1961 work on short weight and inconspicuous and inadequate labeling disclosed, as might be expected, there were those who had taken advantage of our preoccupation with other violations and we did find a significant number of violations. These resulted in seizure actions as outlined in the attached table A, which I would like the subcommittee to enter in its record. * * *

"The statute includes a provision which classes a food as misbranded if its container is so made, formed, or filled as to be misleading. When this provision became effective in 1940, there were, of course, many products which were properly filled just as there are today. We did proceed by way of seizure action against a substantial number of flagrantly deceptive packages and these actions were terminated either by default or consent decree of condemnation which did not involve any contest of the Government's charges. Concurrently, we held a number of meetings at the instigation of various industries looking toward just how some packages, objectionable under this section, might be made legal. Included in these groups were the spice industry, the toothpaste industry, the macaroni industry and the manufacturers of chocolate coated cherries—which must be very carefully packed to avoid breakage. In each case, it was possible to work out formulas so that, if followed, the packages would not be deceptive. In some cases, this resulted in reduction in the size of the package and in others, in increase in the amount of food filled into the package. This is just another example of how industries, working together with Government, can solve problems.

"We believe there should be much more of this. Unfortunately we cannot say that in all cases over the years the packages met exactly the formulas which were so carefully and precisely worked out.

"While every legal action which we have brought under this section where the owner of the goods has elected to contest our action has resulted in a verdict against the Government, we did, last year, obtain from the Court of Appeals in Philadelphia, a ruling which gives promise of greatly helping to improve this situation

"The law authorizes the establishment of fill-of-container standards and we have applied this in a limited way to canned oysters and shrimp and to a few canned fruit and vegetable items. . . .

"We have no illusions that actions by the Food and Drug Administration alone will correct all of the problems in this area of short weight and inconspicuous labeling. Responsible industry must do its part."

Upon completion of Mr. Larrick's testimony and under the questioning of the witnesses there are certain quotes by FDA officials showing the extent of their authority under existing law. (Pages 806-808.)

"Mr. GOODRICH (William W., Asst. Gen. Counsel, FDA). They were that the statement which appeared there was in such conspicuousness as to render it likely to be read and understood under ordinary conditions of purchase and use. This kind of language is not the epitome of exactness of where this label statement appears and how big it is. * * *

"Mr. GOODRICH. One way to provide it is by rulemaking to specify where the statement appears and, also, its relationship to other information on the package. This is a question of whether you can do it by rules or whether we need additional law from the Congress. * * *

"Mr. GOODRICH. We are not advocating any change at this time. As the President's message said, we are trying to see what we can do under existing law and with our existing facilities. * * *

"Mr. GOODRICH. What we should do is promulgate a regulation interpretive of section 403 of the conspicuousness requiring a certain point of placement. We are going to get a big legal argument on that, but we are prepared to take that step all the way down the street here, if necessary, and we are confident that we can make at least some of that stick. * * *

"Mr. GOODRICH. * * * we have a Supreme Court case, *United States versus Antikamnia Chemical Company* which was decided some years ago, which holds that where you issue one of these interpretive regulations carrying out the purposes of the law it will be given the effect of law. We recently took that same point to the second circuit on our authority to cancel some certificates for coal tar colors after we found they were dangerous, with no expressed authority in the law, and the court of appeals again upheld the validity of that type of regulation where it was calculated to carry out the purpose of the law. This is the basic interpretation under the hazardous substances provision and this is what we have said we are prepared to take all the way if it becomes necessary. I have confidence that we can make those regulations stick."

Chairman Paul Rand Dixon, Federal Trade Commission, appeared before the subcommittee on March 28, 1962, and these are his quotes:

"How does the Federal Trade Commission fit into this picture?

"At this point, let me digress a moment to present some background information on the scope of possible jurisdiction of the Federal Trade Commission in the fields of packaging and labeling.

"Under section 5 of the Federal Trade Commission Act, as amended by the Wheeler-Lea Act of 1938, 'Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce,' are declared unlawful. The primary purpose for the amendment to section 5 of our act was to counteract, the decision in *Federal Trade Commis-*

sion v. Raladam (283 U.S. 643 (1931)), wherein the court held that the Commission could not proscribe false obesity cure advertising where no substantial competition, present or potential, was shown to have been injured or clearly threatened by the false advertising. The Wheeler-Lea Act amendments were, however, not limited to this provision. That act also added section 12 to the Federal Trade Commission Act, prohibiting false advertisements of food, drugs, devices, and cosmetics, and armed the Commission with additional procedural weapons to combat the forbidden practices.

"At this point, Mr. Chairman, prior to 1938 the Federal Trade Commission Act merely prohibited unfair methods of competition. As can be seen in the *Raladam* case, in order to sustain the burden of proof it was necessary to allege and to prove that competition had been injured. There was no reference to the injury that might occur to the consuming public. When the words were added, 'unfair or deceptive acts or practices,' this cut both ways, both against competition and those things that affected the consuming public.

"It is interesting to note that the Wheeler-Lea Act and the Federal Food, Drug and Cosmetic Act of 1938 were enacted during the same legislative session of Congress. The latter statute entrusted to the Food and Drug Administration of the Department of Agriculture—now transferred to the Department of Health, Education, and Welfare—the authority to take action with respect to misbranded and mislabeled foods, drugs, cosmetics, and devices. Specifically, section 403 of that act declares that a food shall be deemed to be misbranded—

"(a) If its label is false or misleading in any particular; or

"(b) If its container is so made, formed, or filled as to be misleading.

"Additional requirements to insure against misbranding or the misleading labeling of food are spelled out in subsections (e) and (f) of this section of the statute. If that statute is fully copied, you will find like language in the drug section of the law, and, I think, and perhaps as to cosmetics.

"Congress thus provided a plural approach to consumer protection in the field of food, drugs, cosmetics, and devices.

"Again digressing, when sections 12, 13, 14, and 15 were added to the Federal Trade Commission Act, these specific powers of the Commission in the act were extended to food, drugs, and cosmetics. This is with respect to the Federal Trade Commission's power, but it also pertains to advertising of these products.

"This choice by Congress was deliberate and considered. It retained to the Federal Trade Commission the jurisdiction it had over false and deceptive advertising of foods, drugs, cosmetics and devices, as well as all other commodities. At the same time, Congress sought to preserve the advantages accruing from the experience gained by a specialized agency in direct proceedings against impure or misbranded foods and drugs. Accordingly, the Food and Drug Administration was given strengthened authority over the misbranding and mislabeling of such products. The intention of Congress in enacting section 403 of the Federal Food, Drug, and Cosmetic Act of 1938 was clearly expressed by the following language in the reports of the Senate Committee on Commerce:

"This is intended to reach abuses which have arisen in the packaging of food through the use of deceptively shaped, formed, or colored containers. It is likewise intended to reach deceptive methods of filling—particularly those known as slack filling—where the package is only partly filled and, despite the declaration of quantity of contents on the label, creates the impression that it contains more food than it actually does."

"The decision in favor of a plural approach on food and drugs, we believe, has been amply vindicated. It has not caused overlapping of effort, undue harassment of the industries regulated, or constant jurisdictional quarrels. Mutual cooperation has existed between the affected agencies. The Federal Trade Commission and the Food and Drug Administration have long worked to eliminate all of these possible dangers. In 1954, after many years of operation under an informal understanding, the two agencies entered into a formal working agreement which is still in effect and which sets forth the primary responsibility of each agency, areas of sole jurisdiction, policy as to the avoidance of duplication of proceedings, and the establishment of permanent liaison between the two agencies. * * *

"Then if the Commission challenges this and can sustain the burden of proof as is outlined from the statute, the basic statute, it can after an adversary proceeding issue a cease and desist order which is an injunction in its most effective form, it is a permanent injunction, if you please, against the practice which would become effective if not appealed within 60 days. If it is appealed in 60 days it would become effective only when the court has reviewed it and made our order its order and commands obedience to it.

"There we acquire the title quasi-judicial. We are a commission, quasi-legislative with the power of the Congress, quasi-judicial when the court stamps its approval upon it.

"The Commission has had considerable experience in protecting the consuming public from false and deceptive practices, accomplished by various means and practices. The Commission also has had occasion in a few cases to pass on false and deceptive packaging of various products, including those for foods, drugs, cosmetics, and devices, which, since the agreement of 1954, is the responsibility of the Food and Drug Administration.

"The Trade Laboratories, Inc., et al, (25 F.T.C. 937 (1937)), respondents, engaged in the sale and distribution of shoe polish, shaving, dental, and suntan creams, and other toilet articles, were found to have been placing the tubes or containers of their products in cartons of a capacity and size greatly in excess of that required to house the various tubes. The Commission noted that 'when the purchasing public makes a purchase of a product of the type manufactured and packed by the respondent, not being able to see the inside of the carton or container or able to examine it before purchase, it expects and usually does receive a tube or an amount of the product commensurate with the size of the pasteboard carton or container in which the product is packed for sale.' The Commission directed the respondent to cease and desist from 'representing, by the use of any of said products in greatly oversized cartons or containers, or in any other manner, that a substantially larger quantity or amount of such product is therein contained than is actually the case.'

"This was prior to the Wheeler-Lea amendment, you will note. The only power in the law that any agency had to proceed against such practices was that in the Federal Trade Commission.

"You will note, also, there was a specific respondent, the proceeding was only against one party.

"Much the same situation was presented in *Marlborough Laboratories, Inc., et al.*, 32 F.T.C. 1014 (1941), where the evidence showed that some of the shaving creams and toothpastes made and sold by the respondents were packaged in ordinary-sized tubes and then enclosed in much larger cartons.

"Now, we come here to 1941, after the Food and Drug Administration Act had gone into effect. Here we have two powers, the power of the Federal Trade Commission to proceed as well as the power of the Food and Drug.

But subsequently we worked out a very good liaison, and we both proceeded without any conflict.

"This method of filling, the Commission found, 'misleads and deceives purchasers of such products into the belief that they are securing a greater quantity of such products than they would receive in the ordinary package or containers. The packaging of products in such a manner is known in the trade as slack filling, a practice which misleads and deceives the purchasing public and is unfair to honest competitors.'

"Our basic law had been extended now not only to unfair competition, but unfair and deceptive acts and practices. The Commission issued an order against the continuation of such practice.

"Another example of the Commission acting against so-called slack filling is found in *Burry Biscuit Corporation, et al.*, 33 F.T.C. 89 (1941). Here again—this is 1941 again—the Commission directed the respondent to cease and desist from offering for sale or selling any of its products in a container or package which is substantially larger in size or quantity than that required for packaging the quantity of product contained therein.

"In a more recent case, *U. S. Packaging Corporation, et al.*, 53 F.T.C. 1174 (1957), the respondents, by consent order, were prohibited from packaging snowmaking chemicals—now, you will see here this snowmaking chemical, it is not food or drug device or cosmetic; if anyone can approach it under the law, it must be Federal Trade—snowmaking chemicals in pressurized oversized containers only partially filled, for sale mainly during the Christmas season, and to cease representing falsely in advertising and counter displays that because its containers were larger than those of competitive brands a large amount of artificial snow would be produced.

"However, the Commission has not had many cases of this type and none in which the Commission has issued an order requiring specific affirmative disclosure of the ingredients of a package, or an order forbidding the use of deceptive shapes of packages, or an order requiring that the contents of a package be expressed in such terms and figures as would enable a housewife to make comparative costs of packages of different sizes for the same product.

"There can be no doubt that the Commission's general powers under existing law would authorize it to issue such orders when false or misleading packaging or labeling result in consumer deception. As the Supreme Court held in *United States v. Morton Salt Company*, 338 U.S. 632, 647-648 (1950):

"The fact that powers long have been unexercised well may call for close scrutiny as to whether they exist; but if granted, they are not lost by being allowed to lie dormant, any more than nonexistent powers can be prescribed by an unchallenged exercise. We know that unquestioned powers are sometimes unexercised from lack of funds, motives or expediency, or the competition of more immediately important concerns.'

"However, it is equally clear that additional legislation could serve a useful function."

Mr. HRUSKA. The language which the amendment seeks to strike is as follows:

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

The opening part of Commissioner Larrick's testimony is as follows:

The Federal Food, Drug, and Cosmetic Act, enacted on June 25, 1938, is fundamentally a consumer measure. In addition to requiring that foods be clean, sound, and wholesome, it has provisions designed to inform the

consumer about the food in the package and thus permit her to make intelligent selections at the marketplace.

The law has, for example, a provision for the establishment of standards of identity, quality, and fill of container. In establishing any such standard there is a clear-cut requirement that such action must be one which will promote honesty and fair dealing in the interest of the consumer.

In addition to prohibiting false or misleading statements in the labeling of foods—and this includes all written, printed and graphic matter accompanying food when shipped interstate and when held for sale afterward, not just the label on the package—the law contains several provisions for supplying positive information. I would like to discuss some of these which have been of previous interest to this committee.

Chairman Dixon, after citing the cases in which FTC and FDA have been successful, and also after pointing out that "there can be no doubt that the Commission's general powers under existing law would authorize it to issue such orders when false or misleading packaging or labeling result in consumer deception," still wanted additional legislation which in effect would cause Congress to abrogate its legislative function to the FTC and authorize the FTC to make its own rules and regulations which would have the effect of law.

Chairman Dixon noted that Congress gave FTC additional power in the wool labeling and several other labeling acts, but the factual situation in those labeling acts were entirely different, as was admitted by Senator HART in his colloquy with Mr. Dixon. Also, Senator MAGNUSON's statement was inserted in the RECORD which showed that industry was in favor of those four enumerated labeling acts and actually initiated those measures in the first place, whereas, under this labeling bill the packaging industry is almost 100 percent against it, because it would bring about the great harm that we have set forth in great detail.

Principally, it would be harmful to the consumers, to the workers, to the industries and to the general economy of our country. There is no judicious comparison between the packaging and labeling bill before us and the four labeling acts mentioned by Chairman Dixon. Their objectives were in entirely different directions.

In conclusion, on this point, we believe that the testimony of Commissioner Larrick and of Chairman Dixon in 1962, which position they did not refute in their 1963 testimony, indicates that existing law if properly enforced is sufficient to meet the problems in the marketplace and there is no need for Congress to pass this far reaching and destructive proposed legislation. The evidence by witnesses, who would be seriously affected by this bill, is overwhelmingly against the bill.

I yield the floor.

Mr. DIRKSEN. Mr. President, I yield myself 5 minutes. Let us get to the truth and the core of the so-called truth-in-packaging bill, otherwise referred to as the fair packaging and labeling bill. Everybody wants to help the consumer but many go about it in a very strange way. The consumer, said President Johnson in his message to Congress on the so-called truth-in-packaging bill,

has a right to a dollar of stable purchasing power.

Indeed, the threat of inflation and a shrinking consumer dollar is among the foremost domestic problems facing the country today. The consumer's right to a dollar of stable purchasing power is being eroded each day, and the greatest victims of this fiscal erosion are those millions of Americans living on nominal or fixed incomes—the very same people for whom the President only last week recommended increased social security benefits.

The Presidential message on truth in packaging was sent to the Senate in March, 2½ months ago. At almost the same time, an independent Associated Press survey of food prices was taking place in 12 key cities across the country.

The results of that survey were released only last week. They bear out an alarming increase in food prices during the past year—an increase of nearly 7 percent.

Moreover, as spring moves into summer 1966, this escalation in the cost of food has shown no sign of abating. Thus, while the truth-in-packaging proposal has been making progress through committee, the American consumer's right to a stable purchasing dollar has been losing ground.

Well might the Nation's consumers wish that the administration's high-pressure effort to move S. 985 through Congress were matched with concomitant action to put a lid on the spiral of inflation in food costs.

Unfortunately, this has not been the case.

True, the President has expressed his concern over the steady increase in food prices. He has wrung his hands. He has counseled the American housewife to carry a sharp pencil to the market. But avuncular words are not enough. What is needed is tangible, affirmative administration action to protect what the President correctly calls the consumer's right to a dollar of stable purchasing power in the Nation's food market.

How then does S. 985 affect this right? Obviously, in his March message, the President intended to convey the idea that enactment of truth-in-packaging legislation would lead to increased purchasing power in the marketplace—that is, more bang for the consumer buck.

But the legislative content of S. 985 does not live up to the glowing Executive words with which it was submitted to the Congress.

Or put another way, where inflation and soaring food costs are concerned, the truth-in-packaging bill itself has not been truthfully packaged and labeled for congressional and public consumption.

It has been attractively wrapped and boldly labeled as a bill to stabilize and strengthen the consumer's purchasing power. Yet all the testimony and evidence which I have seen on this subject prove quite the opposite. For in fact—in truth—every economic projection and indicator points to the conclusion that should S. 985 be enacted, it will mean increased costs of manufacturing and processing in the food industry which usually result in even higher food prices for the consumer.

If then we are to see the so-called truth-in-packaging bill become the law of the land, consistency alone would seem to require that the administration not turn it loose upon the country under any false or misleading label.

Mr. President, let us call it what it is—a bill with an inflationary time bomb—an inflation bill, pure and simple. And let us insist that the administration and congressional supporters of this legislation tell the American consumer the truth about the potential escalating effect of truth-in-packaging regulations on food prices.

The sponsors of this legislation have advertised this bill as one which would give the consumer an opportunity to compare products and prices in the supermarket. Very well then, let the supporters of truth in packaging give the Nation's consumers the same right to compare the purported benefits of this bill with the price they will have to pay for it. Is it a legislative bargain—or an inflationary boobytrap?

In short, let us tear off the deceptive wrapping and fill in the inflationary details on the truth-in-packaging label. Let the American consumer know the truth—and how truth in packaging will mean higher food prices and a shrinking purchasing dollar.

Nor is this loose conjecture of speculation. It is a projection made on the basis of economic facts spread plain upon the record, there for the administration's experts to read and digest.

The warning signs are up. The amber caution light is blinking.

S. 985 means higher food prices.

Mr. President, S. 985 means inflation—and yet more inflation—in the marketplace.

What is misnomered truth in packaging is a legislative package with a high price tag for the Nation's consumers.

Why then, we may ask, does not the administration candidly and truthfully tell the food consuming public that if we are to have truth in packaging we are also going to pay more money for the groceries we buy?

Is not the consumer entitled to know the truth about truth in packaging? Let it be the consumer who decides, on the basis of the evidence, whether the nebulous claimed benefits of S. 985 are worth the certain increase in food prices which enactment of this bill will bring about.

Let the administration open the record then, so that the consumer can see and judge for herself what this law is going to mean in terms of increased production costs for food manufacturers and higher prices for food in the supermarket.

Let the American consumer herself—not the administration's statistical experts on consumerism—be the judge.

And indeed, should this inflation-producing bill labeled S. 985 be made into law, there may very well be a sharp judgment come November for all those would-be friends of the consumer who fail to consider the inevitable cost-price chain reaction that truth in packaging will set off.

Let the consumer—and those who would represent the true interests of the consumer—judge and reflect upon the

estimate submitted by one leading food manufacturer that passage of S. 985 would necessitate the expenditure of approximately \$11½ million in additional capital outlay and operating costs in order to conform to the eventual requirements of the new law.

This added outlay by itself—not taking into account other production expenses required by the need for new package standardization—would mean a 2½ percent increase in the cost of manufacturing the company's food product. And that is the estimated increase in costs at the factory only. It does not take into consideration the increased costs which will accrue in transporting food product from the factory to the wholesaler, to the jobber, and finally to the supermarket shelf.

What would these added costs mean to the consumer? Let the administration admit the truth of the matter.

Higher costs of manufacturing can only mean higher food prices.

There is no evading or avoiding this simple economic truth. There is no ignoring it, shunting it aside, covering it up under the all-encompassing euphemism of truth in packaging. To repeat:

Higher costs of manufacturing—costs made necessary by new truth in packaging regulations and requirements—can only lead to higher food prices for the American consumer.

Thus, another leading food manufacturer estimates that the change which would be required in packaging operations under the terms of S. 985 would mean added company manufacturing costs of at least \$10 million for 11 popular items they manufacture.

And who will pay? The consumer will pay.

Again, a major soap manufacturer has submitted a realistic projection of a \$10 million increase in cost of manufacturing, along with an estimated \$2 million continuing expense to meet the new standards which would be set by S. 985.

And who will pay? The consumer will pay.

A cracker company estimates increased costs of manufacturing in the amount of approximately \$3 million per oven for four varieties of its products.

And who will pay? The consumer will pay.

Mr. President, there are other examples—all in the record which truth-in-packaging proponents prefer to ignore—and all pointing inexorably toward ballooning costs of manufacturing for which, in the end, the consumer will pay.

Nor, as I have pointed out, are these seat-of-the-pants guesses. Rather, they are calculated economic projections made by those most familiar with and experienced in the workings of the American food market and its cost-price exigencies.

In the face of such testimony and evidence, what then is the administration's answer to the No. 1 problem facing the American consumer today—the problem of rising food prices?

If it is S. 985 and the higher food prices which this legislation will generate, then the Nation's consumers might well con-

clude that with friends like the administration's truth-in-packaging lobby, they do not need enemies. For what will it profit the American housewife if she is provided the administration's approved version of truth in packaging, to the tune of higher prices for the package itself?

The consumer, to repeat the President's March message to the Senate, has a right to a dollar of stable purchasing power.

Let me submit, therefore, that on the basis of the facts of the marketplace as they exist this summer of 1966, the administration could take no better action to promote this consumer right than to reassess its position on S. 985.

For if the administration insists on high-pressuring this legislation through Congress—and if it succeeds—the food purchasing power of the dollar may well shrivel near the danger point of an inflation such as the Nation has not known in two decades.

Truth in packaging, at this economic juncture, can only exacerbate an already serious inflationary trend. Let the administration therefore stop, look, and listen to what is going on in the Nation's marketplace, and above all, let it be candid in its dealings with the consumer. For the cost of doing otherwise—in terms of the national economy and the true interests of the American consumer—may well be disastrous.

Mr. President, at a later time I shall discuss in more detail from the testimony of the hearings the additional costs to manufacturers and the resulting increased prices to the consumer if S. 985 should become law. I will also discuss at that time the testimony in the record that it would cost the Commerce Department an estimated \$20,000 per product standard if they were to adopt the procedures suggested in section 5, subsections (d), (e), (f), and (g).

With an estimated 8,000 products now on the retail store shelves with a proposed increase of some 20,000 in the future, it would run to a minimum of \$150 million additional costs to the Commerce Department alone if they followed the procedures set forth in S. 985 for each product. This does not include, of course, the business expenses of the companies which will have to pursue the matter before the Government agencies, which business expenses are tax deductible and could cost the Government a minimum of \$100 million in loss of taxes. Also, at a later time, I shall discuss the loss to the general economy, due to less innovated products as a result of the provisions in S. 985. This loss will come in the form of loss of wages, loss of taxes resulting therefrom. The President has repeatedly said that we must be alert that there will not be a sag in our economy. Economists have warned of certain dangers, and the passage of S. 985, as noted above, will add to those economic dangers. This is no time for the Federal Government to intrude into business management which has given us a fine system of production and distribution of packaged goods. I urge all Senators to vote to delete section 5 (d), (e), (f), and (g), as requested by Senator NORRIS COTTON's motion.

Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment offered by the Senator from Illinois [Mr. DIRKSEN].

The amendment was rejected.

AMENDMENTS NOS. 594 AND 595

Mr. DIRKSEN. Mr. President, since amendments Nos. 594 and 595 relate generally to the same subject matter, I ask that these two amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments will be stated.

The legislative clerk read as follows:

On page 18, line 22, delete all of said lines 22 through 25 and lines 1 through and including page 19 line 10.

On page 19, line 11, delete all of said lines 11 through and including 17.

Mr. DIRKSEN. Mr. President, I direct attention to the fact that section 5(c) (1) permits the Secretary of Health, Education, and Welfare, and the Federal Trade Commission to use wide discretionary powers in regulating the packaging of consumer products.

I shall read from the text of the bill.

(1) establish and define standards for characterizing the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity.

This permits those agencies to issue commodity-by-commodity regulations. If the appropriate agency determines that there is "significant variation" in the use of descriptive terms which identify size between competing products a new standard may be established. To quote the majority report:

The authority could establish uniform standards for "small," "medium," and "large" packages in that commodity line.

Apparently, the authors of S. 985 feel that people are being misled by statements such as "family size," or "economy size." What unsettling doubts pervade the minds of housewives when they encounter a mammoth soap package described as "laundry size." Making these packages standard will not lighten her household chores, will not decrease the amount of dirty clothes she must wash, and most important of all, will not save her any money. She makes her choice on the basis of personal preference, need and perhaps, shelf space. Perhaps our next legislative effort will be to set standards for the makers to follow in providing adequate accommodations for the larger packages.

Let us look at the present law. Section 403(a) of the Food, Drug and Cosmetic Act reads as follows:

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

A similar provision covers the labeling of cosmetics and drugs. Section 5 of the Federal Trade Commission Act provides:

Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

As one witness before the Senate Commerce Committee commented:

Present law does not authorize the Federal agencies to define the label terms that may be used to describe the quantity of the package, but if the terms which are used are misleading or deceptive the use can be prohibited under existing law.

This provision in S. 985 would transfer the authority to designate descriptive terms to be used from the individual manufacturer to the governmental body. It would seem logical that industry should not be restricted to the point that they cannot designate names for their own packages, even though those names be completely legal and fair.

If a package of soap, for example, is marked "family size" and would provide sufficient volume to be adequate for the average 4 to 5 member family, the labeling would not seem to be at all misleading. If, however, the housewife with 12 or more children considers her family to be of average size no amount of labeling control would help her.

Therefore, Mr. President, I submit this amendment which would delete section 5(c) (1).

Mr. President, amendment No. 594 would eliminate from the proposed bill a section which when read together with other sections of the bill, would serve absolutely no purpose if its intent is as the authors state.

The particular section to which I refer is section 4(a) (1) which is found on page 16, lines 10, 11, and 12. This particular provision in S. 985 provides that in connection with section 6 of S. 985, regulations may be promulgated by either the Secretary of the Department of Health, Education, and Welfare or the Chairman of the Federal Trade Commission which would control certain aspects of the labeling of various commodities. It is aimed specifically at the placement of the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor.

Perhaps it may be so naive as to read a portion of section 403 of the Food, Drug, and Cosmetic Act which is found in title 21 of the United States Code at section 343.

SEC. 403. MISBRANDED FOOD.

A food shall be deemed to be misbranded—

- a. If its labeling is false in any particular
- b. If it is offered for sale under the name of another food
- c. If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packager or distributor;

Does S. 985 have some hidden mystic which can improve on that? Is not the language perfectly clear? The Secretary of Health, Education, and Welfare certainly must have understood it. Located in title 21 of the Code of Federal Regulations, chapter I, subchapter A, part I, are the regulations which he has issued for the purpose of amplifying that law. Pertinent to the listing of the manufacturer, packer, or distributor is a portion of section 1.8:

Food: Labeling; required statement; when exempt.

a. Where a food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase which reveals the connection such person has with such food, such as Manufactured for and Packed by —, Distributed by —, or other similar phrase which expresses the facts.

b. The statement of the place of business shall include the street address, if any, of such place, unless such street address is shown in a current city directory or telephone directory.

c. If a person manufactures, packs, or distributes food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where each package of such food was manufactured or packed or is to be distributed, if such statement is not misleading in any particular.

d. The requirement that the label shall contain the name and place of business of the manufacturer, packer, or distributor shall not be considered to relieve any food from the requirement that its label shall not be misleading in any particular.

Unless there is some heretofore unexplained reason for its inclusion, I can see no justification for it. Only excess verbiage could result—with confusion its byproduct. I, therefore, submit this amendment to withdraw section 4(a) (1) from S. 985.

Existing law adequately covers this area. The manufacturer, packer, or distributor is presently required to identify the product. The label now must accurately represent the contents. It is considered to be misbranded if it provides a label which is a "false or misleading representation with respect to another food or a drug, device, or cosmetic" (F.D.C. Regs. pt. I, sec. 1.7(a)).

Furthermore, the present regulations issued by the Secretary of Health, Education, and Welfare provide that:

The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling. (F.R.C. Regs. pt. I, sec. 1.7(b)).

Why this should be considered insufficient is beyond me. I would therefore urge that this provision be deleted from S. 985 as reported.

Mr. President, consistent with their attack on the use of any descriptive terms used in packaging which may have different meanings to different people, the authors of S. 985 want to control the use of the word "serving." Section 5(c) (2) would allow for the issuance of regulations which would standardize the amount that could be called a serving:

(2) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed.

Supposedly our country's manufacturers and packers are either dishonest in such designations or they are incapable of determining just what amount of a given product would constitute a serving.

If they are unscrupulous and dishonest, how could they be stopped now?

Section 403(a) of the Food, Drug, and Cosmetic Act states:

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

Section 5 of the Federal Trade Commission Act provides:

Unfair methods of competition in commerce, are hereby declared unlawful.

Presently, neither one of these provisions authorizes the agencies to define serving sizes, but both could be used to prohibit false or deceptive label statements of the number of servings. But we hear that the manufacturers are not dishonest but merely so inconsistent within each commodity line that the housewife is confused.

And how do we eliminate such confusion? How do we standardize what may constitute a serving for a given product? Aaron S. Yohalem, senior vice president of Corn Products Co., gave before the Senate Commerce Committee this explanation of the serving determination:

The best that can be done is to provide a guide for the consumer. Based on the experience of our home economists, we indicate a reasonable average serving or use. But we leave it to the housewife to decide what a "serving" is when her husband eats two 6-ounce bowls of soup, while her daughter eats only 3 ounces. She is used to making these "guesstimates"; she had to do the same thing when she bought the raw ingredients themselves.

We do not believe we can regulate the size of "servings", and we do not think the government should try to either. It has to be an estimate based on consumer surveys and the results of the work in our test kitchens. The work we do must lead to the acceptability by the housewife. However, since the housewife is going to hold us responsible in any event, we believe we should have the right to use our best judgment, rather than being forced to use the estimate of the Federal Administrator.

Now, however, if we should pass S. 985, Federal agencies will be our test kitchens and administrators will be our home economists. And when enough housewives are dissatisfied with the "servings" listed on a company's products, the vice president in charge of marketing will lose his job while the Government "home economist" will rest serenely in his civil service easy chair.

Imagine the drama unfolding as the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the head of the Food and Drug Administration, and the Chairman of the Federal Trade Commission sit down to test the servings of spinach as prepared by the Special Assistant to the President for Consumer Affairs. When spiced with vinegar, the two Secretaries and the Food and Drug Administrator devour 6 or 7 ounces while the Chairman of the Federal Trade Commission only nibbles at 3 ounces and that only for the vitamin content. When covered with melted butter, the proportions consumed may be quite different—in keeping with attempted diets.

All of this, of course, will not be of any assistance to the housewife whose four subteenage boys have not yet become acquainted with the beneficial attributes of that fine vegetable.

Miss Dunham, a vice president of the

General Foods Corp., in her testimony before the Senate Commerce Committee pointed out the futility in this type of Government regulation stems from the fact that "serving" indications on the label are not at all for price comparisons. She also indicated, quite appropriately, that not very humorous effects of such regulations may result:

Miss Dunham stated:

We are opposed on both practical and empirical grounds to the provisions of the bill which attempts to standardize servings. Let me assure you that there can be no such thing as a standard serving. As a guide to the homemaker, we do indicate on many of our packages that she can expect a yield of so many portions of such-and-such a size—a half a cup or so many ounces.

But the concept of what constitutes a serving varies so widely among families that any attempt to set a national standard would be, in our judgment, wholly impractical. There are light eaters and heavy eaters, teenagers with insatiable appetites, and older persons on diets. Physical laborers need large portions, and office workers don't. The suggestion that somebody can decide in Washington what constitutes a serving of each of the thousands of food products in the supermarket has an Orwellian quality.

The inclusion of this in the bill, even as a discretionary provision clearly reflects a misunderstanding of the purpose of label information relating to number of servings or yield. Such information is not designed to provide the consumer with a basis for comparing prices at the time of purchase. Her basis for price comparison is provided rather by a combination of the net weight or net volume or yield plus her experience as to the difference in quality among various brands.

Having made her decision on that basis, she then turns to the serving information, much as she would to a cook book, as an aid in preparing her meals. Government dictation of serving size thus would not only be a completely unnecessary and futile exercise; it would seek to attach to serving information a significance which it was never intended to have.

Because of the dangers and the confusion inherent in section 5(c)(2), I respectfully suggest that it be eliminated from the bill and offer an amendment for that purpose.

Mr. President, I ask for a vote on the amendments, and I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc offered by the Senator from Illinois [Mr. DIRKSEN].

The amendments (Nos. 594 and 595) were rejected.

AMENDMENT NO. 598

Mr. HRUSKA. Mr. President, I call up amendment No. 598.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 20, line 21, delete all of said lines 21 through and including lines 1, 2, 3, 4, 5, 6, 7, 8, 9, of page 21.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

Mr. President, the pending business is the consideration of S. 985, the Fair Packaging and Labeling Act. It has been announced that in due time a motion will be made to refer this bill to the Judiciary

Committee for consideration of its anti-trust aspects and implications.

Last week, I discussed some of the reasons which seem to me compelling and persuasive why such action would be sensible and essential in order to avoid future problems. This bill does have serious antitrust implications. In this regard, my remarks last week were addressed primarily to procedures for developing the so-called voluntary product standards. Members of an industry which participate in such procedures run the risk of violating existing antitrust laws by doing so. It is our legislative duty to clarify this aspect of the bill. This can best be done by referral to Judiciary.

The provisions relating to "voluntary product standards" are subsections (d), (e), (f), and (g) of section 5. Senator CORTON's amendment (No. 572) would have stricken these provisions, but was defeated yesterday.

My purpose today is to express my strong disapproval of these provisions and, accordingly, my reservations about S. 985 itself. There are many reasons why these controversial provisions are harmful in the extreme. They substitute bureaucratic authority for the forces of a free market. The consumer is a free market force. These odious provisions do not protect the interests of the consumer; on the contrary, they eliminate those interests.

In addition, testimony shows that increased manufacturing costs caused by the bill could be horrendous. Who will absorb these costs? The bureaucrat? No, it will be the consumer.

These and other reasons have been fully developed on this floor. It is my purpose now to cite several particulars which illustrate the confusion and harm that will be wrought by these provisions.

My points are two:

First. Regardless of any assurances by the bill's proponents to the contrary, once voluntary product standards are published, there is nothing in the bill that would prevent a promulgating authority, the Federal Trade Commission or the Secretary of Health, Education, and Welfare as is applicable, from immediately taking steps to make the standards mandatory, even though the standard is adhered to by the industry. Allow me to repeat; a voluntary product standard may be made mandatory even though it is being adhered to by the industry, as I read the bill.

Second. Despite assurances of its sponsors that this bill contains protections so that those industries which use returnable or reusable glass containers for beverages will not be required to redesign bottles and vending machines, I suggest to you that, under the bill, capacities and dimensions of reusable glass containers could be changed by a published voluntary product standard and by mandatory regulation.

My first point was that there is nothing in the bill to prevent a promulgating authority from taking steps to make a voluntary product standard mandatory, regardless of whether the industry is adhering to such standards.

The report of the Commerce Committee states at page 8:

Where a voluntary product standard promulgated by the Secretary of Commerce is in effect but is not being complied with, the promulgating authority may initiate a proceeding for the establishment of a mandatory standard. However, such standard may not vary, in substance, from the voluntary standard.

I have searched the language of the bill itself for something which requires the promulgating authority to find that the standard "is not being complied with" before it promulgates regulations. The search was a futile one.

Section 5(d) provides that whenever the promulgating authority determines that the weights or qualities of a commodity are likely to impair the ability of consumers to make price comparisons, it shall, first, publish such determination in the Federal Register; and second, promulgate, subject to subsections (e), (f), and (g), regulations establishing weight or quantity standards.

Subsection (e) allows any producer affected by the published determination of comparison impairment to request the Secretary of Commerce to participate in the development of a voluntary product standard. Commerce notifies the promulgating authority of such request.

In essence, subsection 5(f) (1) provides that no regulation promulgated pursuant to 5(d) (2) may vary from any voluntary product standard published within 12 months from the filing of the request to participate in its development—or 18 months from the date of request under certain specified circumstances.

No mandatory regulation can be promulgated while the procedures for a voluntary product standard are being followed. But there is absolutely nothing in subsections (e) or (f) of section 5 which would prohibit the promulgating authority to initiate proceedings for a mandatory regulation immediately after the voluntary product standard was published. This can be done regardless of whether the industry is complying with the voluntary standard.

The proponents of this bill say one thing—but the bill, which obviously controls, does not so provide.

Subsection (g) likewise does not prevent this. It simply relates some factors which must be considered in promulgating regulations and does not include any reference to a necessary finding that the voluntary standard is being ignored by the industry.

What new definition is being given to the word "voluntary" by S. 985's proponents? This bill contains about as much voluntariness as it does authority to construct a unicorn.

There is no question of interpretation here that would send a court to legislative history. The four corners of the bill are perfectly clear and under the tenets of statutory construction that is where a court's inquiry stops. This bill, quite simply, under the guise of voluntariness, allows a promulgating authority to make voluntary standards mandatory, even though affected businessmen are following the standards to the letter.

The difference between a mandatory regulation and a voluntary standard

needs no extended discussion. The affect on a businessman's ability and freedom to respond to market forces is obvious. This new version of S. 985 is no different from its predecessors which only provided for mandatory regulations.

It is easy to see what this means. A businessman may be attempting in all good faith to comply with a voluntary standard, but for one reason or another slips on one occasion. Under a voluntary standard, assuming he realizes the error, he can take steps to prevent a reoccurrence.

If the voluntary standard were made mandatory, which can be done immediately on publication as I have shown, he has violated the law. He can be made subject to a criminal prosecution. Section 7(a) of S. 985 states that any consumer commodity under the jurisdiction of the Federal Food, Drug, and Cosmetic Act which is placed in commerce in violation of a regulation issued under section 5(d) (2) is misbranded. The penalties of section 303 of the Food and Drug Act (21 U.S.C. 333) are applicable. This section provides in part that this is a misdemeanor and the guilty party "shall on conviction thereof be subject to imprisonment for not more than 1 year, or a fine of not more than \$1,000, or both such imprisonment and fine."

How can anyone be in favor of such an unfair and harsh result? S. 985 allows it.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. HRUSKA. Mr. President, I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 additional minutes.

Mr. HRUSKA. Mr. President, the second point is that if this bill is supposed to protect certain industries from the requirement that returnable glass bottles and vending machines be redesigned, it fails. Under the bill, voluntary standards could be published and regulations could be promulgated changing the dimensions and capacities of such bottles.

The Commerce Committee report states at page 8 that section 5(f) (4):

Provides that no weight or quantity standard established under the act shall have the effect of precluding the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the act. A large proportion of reusable bottles are designed for use in vending machines and the committee included this provision to assure the soft drink industry that nothing in the act could require the redesign of all vending machines.

The committee refers to the soft drink industry, and for purposes of example, so shall I. Does section 5(f) (4) protect that industry? It does not. That part of S. 985 reads, as is relevant, as follows:

SEC. 5. * * *

(f) No regulation promulgated pursuant to subsection (d) (2) with respect to any consumer commodity may—

* * * * *

(4) preclude the continued use of particular dimensions or capacities of return-

able or reusable glass containers for beverages in use as of the effective date of the Act.

The first thing that must be noted is that the protection of subparagraph (4) only refers to a "regulation." The Department of Commerce rules in paragraph 10.7 state:

A standard published by the Department under these procedures is a voluntary standard and thus by itself has no mandatory or legally-binding effect. Any person may choose to use or not to use such a standard.

A published voluntary product standard is simply not a regulation. Thus, a voluntary standard could be established and published which changes the dimensions or capacities of glass bottles. The bill does not prevent it. Is this an unreasonable fear? I think not.

A standard review committee for development of voluntary product standards calls for "qualified representatives of producers, distributors, and consumers or users of the product * * * and any other appropriate general interest groups." This is paragraph 10.3 of the Commerce Department's procedures which also makes the Department responsible for the committee's organization. Section 5(e) of S. 985 calls for "adequate manufacturer, distributor, and consumer representation." The committee report at page 7 says that in selecting consumer representation, the Secretary of Commerce may utilize the "President's Committee on Consumer Interests and the Consumer Advisory Council, the Food and Drug Administration and the Federal Trade Commission, labor and consumer organizations, and also distinguished private citizens not affiliated with any affected industry."

Who is to say that as a mere part of this representation the soft drink industry, for example, will be able to make its views carry sufficient weight? Senators may ask: How could such an unreasonable standard ever be published in view of the great and grand safeguards of the Commerce Department's procedures and those of S. 985 itself?

The answer is that stranger things have happened. The answer is that there were no fear that dimensions of glass bottles could be changed pursuant to S. 985, why write in the protection in the first place?

I submit to the Senate that the proponents were concerned that reusable bottles could be affected by this legislation and that the concern was well placed. I fear this, too, among many other things, and I assure the Senate that my fears are not allayed by the present bill.

Earlier, I said that bottle dimensions of returnables could be changed not only by voluntary product standards but also by mandatory regulation. As has been shown, the only protection extends to regulations promulgated under S. 985, not to voluntary standards.

What about mandatory regulations? Under my reading of this bill, that too is possible. A court could very easily construe S. 985 to only protect bottles already on the market and could hold that regulations may require different dimensions or capacities in the future.

My reasoning is as follows: Assume that a voluntary product standard for the soft drink industry has been published which changes dimensions or capacities of returnable or reusable glass containers for the future. As has been demonstrated, this is not a farfetched assumption—there is a real danger of it occurring.

The promulgating authority, the Secretary of Health, Education, and Welfare in this case, since it is an article used for drink, could then initiate proceedings to make the standard mandatory. For purposes of my example, it makes no difference whether the Secretary does it immediately after the standard is published even though industry adheres to it, as the bill would allow, or after it is found that industry is not following the standard.

So, the voluntary standard has been published and the Secretary of Health, Education, and Welfare is promulgating regulations pursuant to section 5(d)(2). Section 5(f) states that "No regulation promulgated pursuant to subsection (d)(2) with respect to any consumer commodity may—" and then it lists certain restrictions.

The first restriction, subparagraph (f)(1), provides that no regulation may "vary from any voluntary product standard in effect." Therefore, the regulation must retain the provisions in the voluntary standard regarding changes in bottle dimensions or capacities. Otherwise it would vary from such standard and this is prohibited. Certainly this would be a substantial variance.

The fourth restriction, subparagraph (f)(4), states that no regulation may "preclude the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the act."

This could mean one of two things:

First. A regulation cannot preclude the continued use of dimension or capacities of bottles in use at the effective date, but it can preclude such continued use of dimensions for bottles not then in use; or

Second. A regulation cannot preclude the continued use of bottle dimensions or capacities in use at the effective date. Thus, the industry could never be prevented from continued manufacture and use of new bottles which followed the old dimensions.

If the second construction were deemed controlling, the promulgating authority would be on the horns of a dilemma. Subparagraph (f)(1) of section 5 requires the inclusion of the changed dimensions, whereas subparagraph (f)(4) would prevent this. How is this to be resolved?

It seems to me, that to avoid such inconsistency, a court could easily hold that the first construction is the proper one. Thus, bottles in use as of the date of the act could continue to be used, until not usable because of breakage, loss and the like, but new bottles would have to conform to the changed dimensions and capacities.

Apart from the fact that this construction avoids inconsistency, there is still

another reason for this interpretation. That reason is based on the reading of subparagraph (f)(4) with another provision in S. 985 dealing with the same subject matter. I refer to paragraph (d) of section 6. That provides as follows:

No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act.

That provision is perfectly clear. It has nothing to do with dimensions or capacities. It simply refers to bottles and provides that bottles in inventory or with the trade at the time of the act are protected. It says nothing which would prevent the change of dimensions for other bottles not in use at the effective date.

A court could find that internal consistency can be given the act by reading 5(f)(4) and 6(d) together, so as to authorize a regulation which includes the new dimensions or capacities set forth in a voluntary product standard which does not prohibit the continued use of bottles in use at the act's effective date.

My example was based on a voluntary product standard first making the changes. But the same reasoning applies when such a standard is not in effect and a regulation is promulgated demanding the change.

The effect of this regulation on vending machines is all too clear. You would have to use old machines to vend bottles in use or inventory, or lose this investment, and develop a new machine to handle the new size bottles.

I have discussed in detail only two of the unwholesome possibilities inherent in merely a part of S. 985, the misnamed "voluntary product standard" provisions.

I find it impossible to support this bill because of these provisions. If they were removed, the question would be a different one.

Mr. President, I yield back the remainder of my time.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment (No. 598) was rejected.

AMENDMENT NO. 596

Mr. DIRKSEN. Mr. President, I call up my amendment No. 596.

The PRESIDING OFFICER. The amendment offered by the Senator from Illinois will be stated.

The legislative clerk read the amendment, as follows:

On page 19, line 18, delete all of said lines 18 through and including line 25.

Mr. DIRKSEN. Mr. President, among the discretionary powers which S. 985 grants is the power to closely regulate the label representations that the product is being sold at a lower than ordinary price. I read:

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary

and customary retail sale price or that a retail price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents; and

This would in effect severely restrict the manufacturer from printing a cents-off announcement on the package or the label. It also inhibits the use of such label designations as "economy size" or other phrases which indicated a lower price per unit cost to the purchaser.

Section 403(a) of the Food, Drug and Cosmetic Act presently provides:

A food shall be deemed to be misbranded if its labeling is false or misleading in any particular.

Section 5 of the Federal Trade Commission Act states:

Unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce, are hereby declared unlawful.

The Department of Health, Education, and Welfare brought proceedings in 1962 against a manufacturer for falsely labeling a package as the "Giant Economy Size." They alleged that this was misbranded because the smaller sizes sold for a lower price per ounce. The defendant corporation entered into a consent decree and agreed to discontinue the use of such labeling.

The Federal Trade Commission has completed investigational hearings in the area of cents-off labeling in the coffee industry. An announcement is expected to be forthcoming from that agency in the near future. Presumably, any company which continues in a practice which runs counter to the expected guidelines will be subject to a complaint procedure brought under section 5 of the Federal Trade Commission.

Miss Dunham, a vice president of the General Food Corp., voiced her opposition to the prohibition:

Legislation that prevents the manufacturer from attempting to bring about a lower retail price even for a short period can hardly be considered in the consumer's interest. As was brought out in earlier hearings, research shows that the vast majority of consumers favor cents-off promotions, and only a very small minority—less than 10 percent of those surveyed—feel that they should be prohibited as deception. Studies which we have conducted indicate that the great majority of retailers do indeed price our products so that the savings on the label are realized by consumers.

We oppose prohibition of "cents-off" labeling not only because the practice is beneficial to consumers, but also because it is a legitimate marketing device which is very important to food manufacturers. The committee should realize that companies like ours compete, in many cases, with retail grocery organizations which pack their own products. The power to price rests with these retailers—our products as well as theirs. If the manufacturer who seeks to achieve price reductions on his product at the retail level is legally prevented from doing so, the result can hardly be advantageous for either the manufacturer or the consumer. This is especially true if no similar prohibition applies to the retailers who pack competing products. It may well be that intensive price competition sometimes confuses the consumer. But it is an irrefutable truth that price competition lowers prices, and lower prices are one of the things the consumer looks for in the marketplace.

Mr. Lee S. Bickmore, the president of the National Biscuit Co. expressed the same feeling in regard to this matter:

Another provision of this bill would prohibit cents-off promotions by manufacturers.

Again, as a salesman and businessman I feel strongly that the cents-off promotion is a legitimate and ethical selling tool. I say this in spite of the fact that in my company we use this type of promotion only on a few minor items. I am opposed to outlawing its legitimate use merely because it may be abused by a few unethical manufacturers or retailers. The provisions of existing law provide ample authority for taking action against label statements as to retail-price savings which are found to be false or deceptive.

The question commonly asked by proponents of this legislation is cents off what? It seems to me that the answer to this question is cents off the regular price normally charged for the product by the retailer, and most packages say so clearly. The manufacturer who marks his package 5 cents off makes a corresponding reduction in the price of his product so that the retailer can sell it at a price that is 5 cents less than his regular price. The manufacturer's purpose is to get people to try his product in the hope that—once they have tried it—they will like it and continue to buy it.

Such promotions are relatively inexpensive for the manufacturer because the cost can be calculated in advance and the package on the shelf is easily perceived by the housewife. Small manufacturers thus can compete on the shelf with a sampling opportunity even though they might not be able to approach the advertising impact of their larger competitors. I think prohibition of cents off would hurt the small businessman much more than large corporations.

Testimony submitted to the Senate Antitrust and Monopoly Subcommittee by the Association of National Advertisers indicated conclusively that housewives like the cents-off promotion and prefer it to other types of offers of a similar nature. They take advantage of opportunities to try other brands at less than usual cost. The results of that survey are contained in the record of the previous hearings before the Judiciary Committee.

It has been indicated upon the very occasion of misuse of "cent-off" labeling, existing law has been adequate. To go to the extremes which S. 985 does would be to deprive the consumer of beneficial savings. I personally think that is going too far, and thus introduce this amendment to delete section 5(c) (3) from S. 985.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD an extract from page 891 of the hearings.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

EXTRACT FROM PAGE 891, HEARINGS,
PACKAGING AND LABELING

IRSTON BARNES, professor, Columbia University. I would, therefore, strongly recommend elimination of Subparagraph (4) from Paragraph (c). I think that the cents-off promotion has a legitimate place in contemporary competition. (a) It is an effective means by which the manufacturer, having made the consumer aware of his product, is able to induce the consumer to change her buying habits and try his product. (b) The alternative to the cents-off promotion as a device for inducing new consumers to experiment with a product is the use of couponing and door-to-door sampling, both of

which are extremely expensive, one might almost say economically wasteful, and neither of which reaches the whole market in the way in which a cents-off promotion can reach all consumers who can be interested.

(c) To prohibit cents-off promotions would be to impose a serious obstacle on the promotional activities of the smaller competitor, who frequently can afford this form of price competition, where he cannot afford either couponing, sampling, or extensive advertising on a basis which will give him a fighting chance against his larger and well established rivals. (d) Finally, I would urge that cents-off promotions are a form of genuine price competition, that they are used periodically as a special sale to increase turnover and volume, and that they are beneficial to the consumer, who is able to use the cents-off promotion to stock up on the products.

(e) The cents-off promotion may also be a means of sparking a permanent reduction in prices, particularly where the product is one with a relatively elastic demand. Through use of the cents-off promotion, a manufacturer may discover that he has a larger and more profitable market at a lower price than he has with his former higher price. This kind of probing of the market should be encouraged; it will not be encouraged by a prohibition of cents-off deals.

I am not deeply concerned about the possibilities of deception inherent in the use of cents-off promotions. Wherever this does become a problem, it can be dealt with effectively by the Federal Trade Commission employing the precedents created in its successful campaign against fictitious pricing in general. I see no need for a mandatory prohibition of this sort in Paragraph (c).

Mr. DIRKSEN. Mr. President, as reported by the Senate Commerce Committee, S. 985 contains a provision which relates to "cents off" appearing on the label of any commodity which falls under the bill. Section 5(c)(4) contains authority for either the Secretary of Health, Education, and Welfare or the Chairman of the Federal Trade Commission to issue regulations which may severely curtail or possibly eliminate the use of cents-off promotions printed on the label by the manufacturer.

When this bill was before the Senate Antitrust and Monopoly Subcommittee in the form of S. 387, this provision was not discretionary, but mandatory. Even though it is now discretionary this long-established practice is in danger. My individual views which accompanied the report of that subcommittee were directed at the mandatory provision, but are just as appropriate when directed at the discretionary provision contained in S. 985 as reported. It was there stated by me:

Why the sponsors of this bill are so adamant in insisting on this provision is difficult to fathom. Their explanation that the manufacturers cannot assure that cents-off discount will be passed on to the consumer does not stand up in the face of the overwhelming testimony of the people who are in a position to know. The only inference that one can get from those who are opposed to permitting the present legal practice of cents-off promotions is that they do not have sufficient faith that the retailers of America will pass to the consumer the cents-off discount price. The evidence is overwhelmingly in favor of the trustworthiness of the retailers and I have faith in them. The evidence is emphatic that the consumer benefits under the cents-off promotion.

Quoted in those individual views was the testimony of Mr. Irston Barnes, pro-

fessor of political economy, Graduate School of Business, Columbia University. His testimony was presented March 21, 1963, and appeared at page 385 in part I of the Antitrust and Monopoly Subcommittee hearings on S. 387. He stated as follows:

I would, therefore, strongly recommend elimination of subparagraph (4) from paragraph (c). I think that the cents-off promotions has a legitimate place in contemporary competition. (a) It is an effective means by which the manufacturer, having made the consumer aware of his product, is able to induce the consumer to change her buying habits and try his product. (b) The alternative to the cents-off promotion as a device for inducing new consumers to experiment with a product is the use of couponing and door-to-door sampling, both of which are extremely expensive, one might almost say economically wasteful, and neither of which reaches the whole market in the way in which a cents-off promotion can reach all consumers who can be interested. (c) To prohibit cents-off promotions would be to impose a serious obstacle on the promotional activities of the smaller competitor, who frequently can afford this form of price competition, where he cannot afford either couponing, sampling, or extensive advertising on a basis which will give him a fighting chance against his larger and well established rivals. (d) Finally, I would urge that cents-off promotions are a form of genuine price competition, that they are used periodically as a special sale to increase turnover and volume, and that they are beneficial to the consumer, who is able to use the cents-off promotion to stock up on the product. (e) The cents-off promotion may also be a means of sparking a permanent reduction in prices, particularly where the product is one with a relatively elastic demand. Through use of the cents-off promotion, a manufacturer may discover that he has a larger and more profitable market at a lower price than he has with his former higher price. This kind of probing of the market should be encouraged; it will not be encouraged by a prohibition of cents-off deals.

I am not deeply concerned about the possibilities of deception inherent in the use of cents-off promotions. Wherever this does become a problem, it can be dealt with effectively by the Federal Trade Commission employing the precedents created in its successful campaign against fictitious pricing in general. I see no need for a mandatory prohibition of this sort in paragraph (c).

Also quoted in these individual views was Mr. E. Scott Pattison, secretary and manager of the Soap and Detergent Association. His testimony was given to the same subcommittee on April 24, 1963, and appeared at page 598 of part II of those printed hearings. He felt that present law adequately covered any false cents-off labeling. His remarks regarding this subject were as follows:

Now, my third point has to do with cents-off labeling, which S. 387 would specifically restrict. In a previous statement before the committee, Mr. A. N. Halverstadt of the Procter & Gamble Co. testified to the effect that retailers do pass on to the consumer the cents-off reductions which the producer makes possible from time to time as one of his competitive tools. But more significant than a manufacturer's opinion, or certainly of my opinion, is that cents-off provision was opposed by a strong proponent of the present bill. Mention was made this morning of reading the testimony of Dr. Irston R. Barnes, economist of the Graduate School of Business of Columbia University.

I am glad to say I did read Mr. Barnes' testimony, and he said in regard to this cents-off provision:

"I would strongly recommend elimination of subparagraph (4) from paragraph (c). * * * I would urge," said Dr. Barnes, "that cents-off promotions are a form of genuine price competition * * * and that they are beneficial to the consumer."

I will not repeat Dr. Barnes economic arguments in full—but would note that he feels any deception arising out of the improper use of cents-off promotions can be adequately met by existing laws against fictitious pricing.

The general counsel of the Association of National Advertisers, Mr. Gilbert Weil, appeared to testify against this provision in S. 387 on April 25, 1963. His testimony, which appears on page 647 of part II of the printed hearings, was as follows:

This is so crucial to responsible deliberation upon the bill that I must take an additional moment to illustrate the pitfalls of personal impressions by one specific example. You have heard what must seem to you an overwhelming expression of consumer antipathy toward cents-off promotions; so much, in fact, that you may believe that consumers generally dislike them. But that's because relatively few of the people who are satisfied with something as it stands become vocal on the subject. It is normal that you, as legislators, should hear from people who want things changed more than from those who are content to leave them as they are.

With that in mind, consider the report by Alfred Politz Research, Inc., which Mr. Greene has just presented to you. That survey made among principal women shoppers showed that of such women 61.7 percent like cents-off promotions best, and only 2.8 percent liked them the least. One-half of this 2.8 percent felt that way because they didn't believe the representation was true in whole or in part. You will see the point I am coming to.

Given the fact that there are roughly 52 million principal women shoppers in the country, your subcommittee could have heard complaints that cents-off labels are phony from as many as 720,000 women and still have been within that small minority of 1.4 percent of the total population of principal women shoppers. I don't have any idea as to how many such complaints you may actually have, but I would be surprised if they came anywhere near 7,000, much less 700,000.

Now, of course, even 720,000 women should not be left unhappy, if it is not necessary to do so. But it does not seem sound legislative policy to bow to their dissatisfactions at the expense of the 31,876,000 women shoppers (61.3 percent) who like cents-off promotions best of the special promotions (and who presumably do not find them phony); or to go counter to the views of the 33,176,000 women shoppers (63.8 percent) who believe that Congress should not pass a law prohibiting the cents-off promotion.

Equally disturbed by the inherent attack on "cents-off" promotions as contained in S. 387 was the vice president of Procter & Gamble Co., Mr. Albert Halverstadt. He stated his objection and a very interesting colloquy between Mr. Halverstadt and Senator HART resulted:

The last mandatory regulation I would like to discuss is the one prohibiting manufacturers from using cents-off packages. The principal reason for this provision of the bill, as we understand it, is that when a manufacturer sells a price-off pack he, the manufacturer, has no absolute guarantee that the retailer will, in turn, pass that saving on to the consumer.

On this point, we would like to be quite clear. We think this provision of S. 387 is harmful. We are convinced that the effect of this provision would be diametrically opposed to the interest of the consumer in that it would cost her more money. We would suggest that any action which increases their weekly grocery bills is certain to be unpopular with housewives.

We believe that the reasoning used in support of this proposal is based on unwarranted fear or incomplete information.

We readily admit that the manufacturer does not control the retail price of his product—except to the extent that fair trade legislation may allow for the setting of a minimum price. It is our experience that retail price control by the manufacturer is not necessary to insure the savings to the housewife that the cents-off promotion promises. The manufacturer merely reduces the price of this product to the retailer so that the retail merchant can pass the reduction on to his customers without sacrificing any of his normal unit profit. The key issue here seems to be whether retailers do, in fact, pass on the cents-off savings to their customers. We know from years of experience that the retail trade consistently passes on to the consumer the savings of our special promotion packs. If a retailer normally sells an item for 34 cents and a package is marked 5 cents off, the retailer almost universally drops his price to 29 cents.

I have here advertisements for grocery stores which have appeared in newspapers all around the country in recent months. These have been selected at random from thousands of such ads which have featured one or more of our price-off offers. In every instance, these ads show that the retailer has reduced the price of the product by at least the amount of the cents-off reduction. In several instances, the retailer has elected to lower his retail price of the promoted product by more than the cents-off reduction in order to have an attractive traffic-building feature item in his store.

These are a few examples (indicating). These are reductions greater than the amount specified on the price-off pack.

Senator HART. They will be made a part of the file.

(The documents referred to will be found in the files of the subcommittee.) * * *

Mr. HALVERSTADT. Yes, sir. I would be pleased to have that.

I might say in some cases where there is a 5-cents off marked on the pack, the retailer, for example, will reduce the price to an amount that is as much as 15 cents off the regular shelf price. The particular features that I mentioned in connection with this exhibit are marked in red pencil. The printed price and the 5 cents off or 3 cents off, whatever the amount is, that is mentioned and we have also penciled in what the retail shelf price normally would be on that item in the store through the check made at the same time.

Senator HART. Thank you.

Mr. HALVERSTADT. Here are reductions which are exactly the same amount as specified on the package.

(The documents referred to will be found in the files of the subcommittee.)

Senator HART. For clarity, is the first batch—

Mr. HALVERSTADT. They are marked.

Senator HART (continuing). Instances where the reduction was even greater than the other? Is that the reason you made the comment?

Mr. HALVERSTADT. Yes.

Senator HART. About the second batch?

Mr. HALVERSTADT. We cannot believe that the money savings which result are anything but welcomed by the American housewife.

The examples I have just given you are from our own experience. I think, however, that our experience is not unlike that of

other grocery product manufacturers. We think it stands to reason that manufacturers would not incur the expense of such promotions if the money savings were not passed on to consumers.

We recognize, of course, that there may be some instances where a manufacturer might put cents-off labels on virtually all of his products in order to imply a cost reduction which does not actually exist. We would readily agree that such a practice is deceptive and that it should be and can be stopped under existing laws.

Yet another quote from my individual views was a statement made by Mr. J. Arnold Anderson, vice president of Safeway Stores, Inc.:

Misuse of cents off promotions: We do not condone misuses or abuses of cents off promotions. The raising of a regular price for the purpose of accommodating a cents-off deal is obviously a misrepresentation.

We may interject that existing law is sufficient under FTC Act to punish offenders of misrepresentation in cents off.

However, we recognize that certain cents-off promotions do tend to move products—very often to a greater extent than a special or regular price reduction of the same amount * * *.

Generally, we are not favorably inclined toward cents-off promotions, but we are not overly concerned by them. We believe their widespread use at present is but a transitory phase of the more or less cyclical rise and fall of such promotional techniques, similar to the use of couponing so much in vogue some time ago. It is inherent in our competitive system that new merchandizing ideas arise from time to time, to continue until their benefits are exhausted and they are replaced by other devices—but with the consumer the ultimate arbiter of what are actual improvements in value.

Mr. Lloyd E. Skinner, president of the National Small Business Association and president of the Skinner Macaroni Co., Omaha, Nebr., stated during hearings held by the Antitrust and Monopoly Subcommittee at page 739, part 2, April 26, 1963, as follows:

As an afterthought I added this, perhaps I should add that even though originally I was not going to say anything about the cents-off merchandising on packages, I believe on its face it is not a deceptive merchandising device. There are probably a few who keep a continuous cents-off package and a complaint by the distributor, I am talking about the chain or the independent retailer, to regulatory agencies concerned could certainly bring an end to this abuse by investigation and showing they never have established a previous price.

Now, there was a reason for these cents-off packages coming into being, and I might just as well mention it.

At times the manufacturer feels that if he can reduce the price, he can get Mrs. Consumer to try his quality and his product and see the way it is made.

Now, naturally they gave a deal to the wholesalers and the jobbers. Generally, the chains cooperated but with some of the wholesalers and the—and I don't mean this against them—they didn't always pass this down to the independent retailer, and so the manufacturer went to the other device or preprinting it on the package, and then giving them the deal and, of course, this forced it all the way down to your retailer, you see.

Senator HART. I am glad that you decided to say something about this because this is the first explanation of its kind we have had.

Mr. SKINNER. Nobody wants to say anything about anybody else in their business and certainly not all the jobbers did this

but when there are hundreds and thousands of items they look for an opportunity to make of items they look for an opportunity to make money and they may feel that maybe this time they don't have to pass this down, you see, and this is how cents-off promoting got started as a merchandising device.

Actually, I don't think there is anything wrong with it if it is not abused except as you have pointed out, I believe, in continuous use. If the distributor wants to report that to the regulatory authorities—he is the one who would know whether it was really a cents-off or not, because he has been selling it at a certain price. Some distributors probably don't always play fair, either.

Senator HART. There is always this problem of what would my relations be tomorrow if I talk today.

Mr. SKINNER. That is right. That is right.

Senator HART. Sir, thank you very much.

Mr. William R. Tinscher, vice president and special assistant to the president, Purex Corp., Ltd., Lakewood, Calif., states as follows on page 729, part 2, April 26, 1963:

Another awesome inconsistency appears in S. 387. From what I read, supporters of this bill believe that any competition other than straight price competition is bad and wasteful and that all possible price advantages must be given to the consumer.

Yet this bill would outlaw packaging being used to reflect cents-off sales and other price-reduction techniques widely used by manufacturers today. Gentlemen, these techniques are price competition. These methods of the producer reaching the consumer directly with price reductions are to the consumer's benefit. If they are outlawed, the consumer is hurt. It is as simple as that.

And, if they are outlawed, the small and the potential new competitive entity will be hurt far worse than the larger producers—a result diametrically opposed to our antitrust philosophy, history, and practice. Existing laws prohibit, and correctly so, any other avenue a producer might utilize to guarantee the passage on of price reductions through the retailer to the consumer.

Paul S. Willis, president, Grocery Manufacturers of America, Inc., New York, N.Y., page 232, part 1 of the packaging and labeling hearings on March 19, 1963, stated:

While there may be instances where cents-off promotions could cause confusion, such instances, must be very isolated. We say that because this type of promotion is very popular with consumers everywhere as is evidenced by their continued purchases and expressed preferences. Cents-off promotions provide a quick way for manufacturers to offer their products to consumers at a reduced price.

The popularity of any promotion is measured by its consumer acceptance. Cents-off deals have proven their popularity, and the homemakers who like them are entitled to have them. Freedom of choice is basic to our free enterprise system and a great American privilege which must be preserved. Any attempt to outlaw legitimate promotions such as cents-off would surely meet with mass consumer resentment.

This industry, as you know, has enjoyed a fabulous growth. In the last 20 years it has grown \$16 to \$80 billion annually. Promotions which are very popular with American consumers, have contributed much to this growth.

Certainly we do not condone any misuse of promotions, and where it occurs corrective action should be taken.

Pursuing further this matter of cents-off promotions which some people apparently don't like, undoubtedly there are others who

do not like premiums, or coupons, or prizes or deals. What is to stop them from asking Congress to outlaw those promotions? Where do we stop? Any prohibition of the use of legitimate and ethical promotions is contrary to our American system of free enterprise which has made possible our world famous high standard of living.

Mr. Willis continued on page 241:

Mr. Chairman, that often times people form a personal opinion based on something rather, but the controlling factor in this country is the mass consumers. Any time you go contrary to what the mass consumers like, you will be hurt.

In Connecticut not long ago, for some time there was a resentment by some members of the trade about the use of trading stamps. Somebody was influential enough to get a legislator to introduce a bill to outlaw trading stamps. When word spread about that effort, the women organized a mass meeting of protest and that was the end of that proposed bill. Similar action was taken in Tennessee and in Colorado.

Anytime anybody goes against why mass consumers desire and will buy, they are going to find an uprising. The same thing applies to cents-off deals. So long as they are popular with the consumer, the manufacturer will use them, and the retailers will handle them. These promotions come and go. Maybe the bloom will be off the cents-off deals and something else will come along, but they are a part of the family of promotional tools, and I am opposed to outlawing a promotional tool which is a part of our free enterprise system of doing business. If there are abuses, let's correct the abuses.

Mr. Harrison F. Dunning, president, Scott Paper Co., page 307-308, part 1 of the packaging and labeling hearings on March 20, 1963, testified as follows:

Senator RIBICOFF draws the conclusion that we take a position similar to that taken by this committee, and so we do with respect to one particular item: Cents off the label, but for quite different reasons. You will note that in our pledge to our customers that we will not indulge in that kind of activity on our regular established products, we did reserve the right to use such a merchandising procedure, following the initial introduction of a new product or when offering a vastly improved old product. We made this reservation because in such circumstances consumer sampling is a requisite to consumer knowledge of a product or product improvement and cents off the label is an effective instrument in encouraging shoppers to try a new or improved product at least once. She then makes her own judgment of its value for the purpose of future purchases.

But it is here that we have to take leave of Senator RIBICOFF's position, because we reached the conclusion that we would no longer indulge in cents off the label, coupons or unrelated premiums on our established product line for entirely different reasons than those which he imputes to us, and I would like to make this point crystal clear to this committee at this time.

The real reason why we disapprove of this kind of merchandising is not because we think the consumer is deceived by it, but because our experience and our research have convinced us that such merchandising tactics on an established brand do not lead to permanently increased sales but only alter temporarily the competitive division of the volume of business that already exists for that type of product.

With tremendous unused capacity in our industrial setup and with almost 5 million people back to work.

I can't help but say, despite our own disapproval of the cents-off the label technique, that eliminating this one practice by law is not the sound approach if you think a

problem exists. It is here that we begin to find ourselves at odds with this bill, for if you are bent on this elimination, do you stop with that? Do you also eliminate contests with prizes? Why should a lot of people, in effect, pay for the prizes only a few receive? Do you eliminate the premiums? How does a customer know if she sends in two box tops and \$1 that she is getting full value received? Do you eliminate the coupons? Do you know—and does the customer know—that an additional 2 cents or so has to be paid to the retailer for the processing of each coupon, a 2 cents that just has to ultimately find its way into the cost of the product? Do you eliminate stamps in retail grocery stores? These stamp plans can increase the overall cost of grocery store purchases by as much as 2 percent to 3 percent. How does a customer know that the premiums she gets for her stamps are worth the price she has paid for those stamps?

So you see, it isn't as simple as eliminating cents off the label, as your bill proposes. Even if you eliminated all these other merchandising promotions, which I don't think you should do, new ones you never even thought of would appear almost overnight.

When S. 985 was before the Senate Commerce Committee, various Government department heads submitted comments. Among them Secretary Freeman of the Department of Agriculture submitted a letter dated April 27, 1965. In this letter he stated:

The requirements of S. 985 are not materially different than the existing regulations under the Food, Drug and Cosmetic Act governing the labeling of food.

His letter also points out that his department currently is involved with the cents-off practices and it would appear that his letter is self explanatory:

There are two provisions of the bill which would constitute a significant difference from the Federal meat and poultry inspection acts and the regulations issued thereunder. These provisions, not present in the meat and poultry acts, are the mandatory prohibition of cents-off labeling by the manufacturer and the administrative authority to establish reasonable weights or measures by which a commodity shall be distributed for retail sale.

We have handled on a case-by-case basis the cents-off labels submitted for approval by manufacturers of meat and poultry products. Relatively few such labels have been submitted for approval. They have been approved when the manufacturer submitted satisfactory evidence that there was no change in the product formula and quality, and when the labels showed the base price to which the "cents off" would apply. Only temporary approval (6 months limitation) is given to a cents-off label. We are currently reviewing the matter to determine if further safeguards or limitations, within the scope of the meat and poultry inspection acts, should be adopted.

The Department of Justice also submitted its comments. At the time the cents-off provision was mandatory. While Justice's suggestion was merely to make the provision discretionary, the suggestion itself illustrates that Department's concern with the anticompetitive effects of such regulations:

Section 3(a)(5) would flatly prohibit cents-off labels. In our view such a prohibition is inadvisable for price competition is certainly a desirable factor in the market place. It is therefore suggested that this provision of the bill be deleted and in its place section 3(c) be amended to add a paragraph "(7)" authorizing the promulgation

of regulations to deal with the "cents-off" question. In the exercise of such an authority, the Secretary of Health, Education, and Welfare or the Federal Trade Commission, as the case may be, could permit the use of such labels under circumstances which would assure against consumer deception and pursuant to appropriate safeguards.

We contend that the same dangers which Justice saw in a mandatory provision would be inherent in the discretionary provision.

Mr. Banzhaf, vice president of Armstrong Cork Co., appeared before the Commerce Committee on April 29, 1965, as a spokesman for the Chamber of Commerce of the United States. His exchange with the committee points out the popularity of cents-off promotions with the consumer:

Mr. BANZHAF. Senator, I believe that there are many studies that show—good validated studies that show the consumers do think they are getting a bargain from a cents-off promotion, and it is very popular. I think that the previous testimony given on the predecessor bill has been quite well demonstrated, if you examine the testimony. I think Opinion Research Corp. has testified, or Alfred Politz, to that effect. There have been a number of studies that have been made, demonstrating that a great preponderance of the consuming public likes them and they believe they do represent a value.

Senator NEUBERGER. It is getting to the point where they have no choice. It is awfully hard to go to a grocery store and find something that does not have cents off on it.

Mr. BANZHAF. I think if you look very carefully you find that is not true.

Mr. Peter W. Allpont, of the Association of National Advertisers, submitted a letter dated April 29, 1965, to the Senate Commerce Committee, in which he referred to a survey conducted by Alfred Politz Research, Inc., as to the popular acceptance of cents-off promotion. In it he stated:

The hearings on S. 387 showed clearly that there is no popular demand for additional legislation in the consumer area. The series of consumer conferences sponsored by the Federal Government and reported upon in detail by Mrs. Esther Peterson, special assistant to the President for consumer affairs, also showed clearly that consumers in general are well satisfied with the wide choice and the high quality of package goods which they purchase daily in the marketplace.

One of the most valuable research efforts to determine consumer preferences is "Women Shoppers' Opinions of Special Offers", a survey conducted for ANA by Alfred Politz Research, Inc., in 1963. The techniques employed by the Politz organization in arriving at these results are the ones used by the Federal Government, including the Bureau of the Census, the Department of Interior, and the Internal Revenue Service, all of which have employed the Politz organization. The results of that survey showed that women shoppers overwhelmingly prefer cents off to any other type of promotion device.

In response to questions, the replies were:

	Percent
Like cents-off sales 1st or 2d best.....	80.3
Like coupons.....	57.2
Like premiums.....	42.3
Like contests.....	6.6
Like cents-off sales 1st, 2d, or 3d best..	90.7
Like coupons.....	84.9
Like premiums.....	83.9
Like contests.....	17.8

Women shoppers were asked whether or not Congress should pass a law prohibiting cents-off promotions. Their opinions were:

	Percent
Think Congress should not pass such a law.....	63.8
Think Congress should pass such a law..	8.9
No opinion.....	27.1
Not reported.....	.2

A copy of the survey together with the explanatory testimony of Mr. Jerome Green, of the Politz organization, is attached herewith. We have taken the liberty of sending copies of this survey to all members of the Commerce Committee in the hope that it might be of some value to them.

Without belaboring the point, it must be clear that this study and the other studies undertaken by individual manufacturers, by magazines, and other associations overwhelmingly support our position that S. 985 would serve no useful purpose. On the contrary, there is voluminous testimony in the record that the bill will tend to increase rather than decrease the prices of many commonly produced consumer items. Earlier hearings brought out that rigid enforcement of the proposed regulations governing package sizes and shapes will require heavier investment and raise the prices of many items at the retail level. It would deny a careful and thrifty housewife the advantage of cents-off promotion, and as we have seen, this is the one type of promotion which such women shoppers prefer.

To summarize, the ANA believes that S. 985, despite the evident good intentions of its sponsors, would be an unnecessary law since there is little if any evidence of the widespread abuses which it proposes to check, and where there are such abuses, Federal and State laws are already broad enough to deal with them. The proposed law would be costly to the consumer, costly to the producer, and costly to the Federal Government.

For these reasons we respectfully request that the Senate Commerce Committee withhold its approval of the proposed legislation.

In concluding his views on cents-off promotions and viewing the drastic effect S. 387 would have had, I stated:

Many others gave excellent reasons why the cents off promotion is definitely an advantage to the consumer in getting a price discount. The record reveals that any consumer who is purchasing a cents-off product can easily determine if the product is really being sold at a discount price. Most retail stores have a price tag of the original price plus the discount price, and further the consumer can compare two competing products, both selling originally at the same price, with one carrying the cents off showing the discount price, and the other without a cents off showing its regular price.

But more important to us is the fact, and it has been stated many times, that any retailer who attempts to cheat the consumer on a cents off promotion will be caught in the act by the consumer who averages two trips to the marketplace per week.

While S. 985 has changed the provision from a mandatory one to discretionary the same dangers appear. The effect on the consumer would be the same—a loss of a legitimate promotional activity which saves the housewife money.

To summarize, Mr. President, here again are restrictions upon innovation, upon merchandising methods, which, in my judgment, are entirely uncalled for and will only add to the burdens of industry, and certainly develop no special benefit for the consumer.

Mr. President, I yield back the remainder of my time, and ask for a vote.

Mr. MAGNUSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment of the Senator from Illinois [Mr. DIRKSEN].

The amendment (No. 596) was rejected.

Mr. DIRKSEN. Mr. President, I yield myself 4 minutes to make statements on two other amendments.

Mr. President, section 5(d) of the so-called truth-in-packaging bill (S. 985) is going to require that certain Government officials conduct a hearing to determine the "ability of consumers to make price per unit comparisons" in a given product line.

(d) Whenever the promulgating authority determines, after a hearing conducted in compliance with section 7 of the Administrative Procedure Act, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall—

(1) publish such determination in the Federal Register; and

(2) promulgate, subject to the provisions of subsections (e), (f), and (g), regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity shall be distributed for retail sale.

Subsection 5(d) (2) provides for the issuance of standards and is amplified by succeeding subsections. Since I intend to introduce a separate amendment dealing with that subject I will not discuss that aspect here.

The task referred to in section 5(d) is at best a difficult one. American law in the future will have a new concept. "The mathematical capabilities of the average consumer." I do not take the position that price per unit comparisons are always easy, or even always calculable. My contention is that we can be in no position to say that manufacturers may not use a certain size container. Nor can we delegate authority to any agency which can determine that a manufacturer is selling his product in the wrong size container.

Stop and think about the nature of the hearings which are authorized by this section. Is the ability to compare in any way impaired? In other words, do some people find it difficult to make the computation? This is not a happy fact, but we can always find some people who would not be able to make the computation under any circumstances. Will they be invited to testify? Does the agency hear the otherwise intelligent person who has a mental block against mathematical computations? And for the others, are they entitled to use pencil and paper? And if not, why not? If saving money is so important, as it is for many of us, why not use a pencil and paper in the market? Is that too much to ask? After all, the housewife now uses a pushcart and her hands are free. She does not have to carry a bag or baskets as in the days of the "familiar, if not always friendly face."

How demanding are other aspects of our lives? Our income tax system is not simple. Of course, the wage earner is

privileged to employ an attorney to be certain that he takes full advantage of his allowable deductions. But that costs him money which is in effect effort spent at his job to earn it. I can see no difference in expecting the housewife to carry a pencil and paper to market to determine where she can save some of her hard-earned money.

If there should be a determination that the comparison is too difficult, new regulations must be promulgated. These would standardize the packages and the manufacturers would, under the threat of penalty, have to comply. Because I deal with the effects on industry and the resulting increased price of goods to consumers with another amendment we can set that aside for a moment. But what would happen to the ease of unit price comparison after the new regulations are in force?

Suppose that new standards were set for a given product whereby the manufacturers were commanded to sell 12-, 14-, and 16-ounce packages. Then, because of our antiprice maintenance laws the retailer puts his own price on the competing products of two manufacturers. He sells three of producer A's 14-ounce packages for 29 cents and two of producer B's 16-ounce package for 23 cents. Which is the better buy?

Another very unsettling problem will arise when, under section 5(d), the Federal Government conducts these hearings. How will like products be matched, one against the other, if they are each designed to serve divergent tastes. A popular brand of coffee advertises that it can make excellent coffee while using only half the amount of coffee grounds. On what basis, and in accordance with whose tastes is the comparison made?

While this piece of legislation is supposedly a necessary effort of relief for our Nation's consumers, one can, with a little thought, see that it is no such thing.

I see absolutely no justification for authorizing a Federal agency to determine what constitutes too difficult a computation. We cannot authorize that agency to tell a producer that his price for a certain sized item is illegal purely on the ground that it results in an awkward mathematical computation. Or is it the other way? The size of the package is illegal because the common denominator for the price and weight is not a whole number. How preposterous. How absurd. How grotesque.

I propose that this section be deleted.

I ask that this amendment be printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

On page 18, line 1, delete all of said lines through and including line 6 on page 23, thus deleting section 5 entirely from said S. 985.

Mr. DIRKSEN. Mr. President, with reference to the second amendment, we firmly believe that a careful and unbiased analysis of the testimony presented during the course of the hearings on S. 985, dealing with packaging and labeling, would come to this unescapable conclusion:

First. That Congress is asked in this bill to give almost a blanket check to the Food and Drug Administration and the Federal Trade Commission to legislate its rules and regulations that would have the full force and effect of law in the packaging and labeling industry which would be detrimental to the manufacturers and to the consumers and would not be in the best interest of the public.

Second. That Members of Congress are becoming more and more concerned and are voting against specific measures because of this creeping system of Congress delegating to a Federal agency Congress's constitutional power to legislate.

Third. That if S. 985 were passed it would handcuff initiative, ingenuity, individualism in the packaging and labeling industry and would have a most disturbing and depressing effect on the ability of the small businessman to innovate new products and new methods of packaging and the distributing of those products. This would lead to less competition and perhaps fewer competitors rather than increasing competition, which is the intent of the antitrust laws.

Fourth. (a) The record is replete with testimony from competent witnesses, not from biased witnesses, that S. 985 is not needed; (b) no effective showing has been made that it is either needed or would aid the consumer; (c) that the bill is attempting to legislate against confusion without defining what confusion is; (d) that it is attempting to make the FDA an antitrust agency—this was opposed by Chairman Paul Rand Dixon, the Chairman of the Federal Trade Commission; (e) that both the mandatory and permissive of S. 985 would cause so many hardships to manufacturers and the consumer who would have to pay in the long run, just to satisfy the complaint of a few that are confused at the retail store when they purchase packaged goods.

Fifth. Mr. President, when we consider legislation affecting agriculture, we place great weight on the testimony of the farmers and farm groups who would be affected by such legislation; when we consider legislation dealing with labor unions, we place great weight on testimony of the people—such as labor leaders—who would be affected by such legislation; and on the same basis, when we discuss legislation affecting the manufacturer or producer, we must place great weight on the manufacturer and producer who would be affected by said legislation. The industry representatives dealing with packaging and labeling are almost unanimous to vigorous opposition to S. 985. Even the representatives of the FTC and FDA, after testifying the successful cases in which they could proceed under existing law, added that they would like to have S. 985 enacted because it would give them the same legislative rulemaking power that was given to them in the Textile Labeling Act of 1958. The major difference is that in the Textile Labeling Act, Chairman MAGNUSON stated:

I believe everyone agreed to the fundamental objectives of the bill.

Whereas, in S. 985 there has been vigorous opposition to the objectives.

At the first day of hearings, both I and Senator HRUSKA made it clear by their statements and by the colloquy that the existing FDA and FTC laws, if vigorously enforced by the agencies, are competent to meet complaints that have been registered during the course of these hearings. The fact that an agency wants additional authority, which is understandable of a Federal agency, does not mean that Congress should give them that blanket authority. It may be noted that in recent legislation before the Senate, we have Senators from both sides of the aisle who vigorously opposed the slow but surely granting away to Federal agencies its constitutional power to legislate. If we are ever going to keep the constitutional separation of the legislative, executive, and judiciary from becoming inoperative, we have got to begin now before we have gone too far in the direction of abdication of our legislative power both in legislation and in the appropriation of funds.

I ask unanimous consent that supporting data and excerpts from the testimony of witnesses be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION OF ADVERTISING AGENCIES, INC.,

New York, N.Y., May 10, 1963.

Hon. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR: The American Association of Advertising Agencies, whose 346 member advertising agencies place nearly three-fourths of all national advertising in the United States, wishes to go on record in opposition to some of the provisions of S. 387, Senator PHILIP HART's "Truth in Packaging" bill.

We have no quarrel with the bill's intent, nor with those of its provisions which would prohibit deceptive packaging and labeling and misleading merchandising practices, provided they do not prohibit practices in these areas which are neither deceptive nor misleading. These abuses do exist, and some sort of regulation may be needed both for the protection of the consumer and for the maintenance of fair competition. We are, however, opposed to those provisions which curtail and, in some instances, prohibit legitimate merchandising practices by all manufacturers in order to halt abuses by a few. Most of the provisions of S. 387 would penalize the honest manufacturer along with the dishonest.

This was not the original intent of the bill as described by its sponsor. Senator HART said the bill's aim was to prohibit unfair and deceptive packaging and labeling. This bill goes far beyond that aim.

Section (c) (4) of the bill would prohibit conventional merchandising practices like "cents off" promotions, 1c sales and "2-for-1" sales. Witnesses before the Subcommittee testified that some manufacturers have misused these sales promotion tools and that the results have been misleading or deceiving to consumers.

Valuable and legitimate merchandising practices which effect savings for the consumer and do not deceive or mislead her should not, in our opinion, be banned. This section of the bill, however, makes no distinction between misleading promotions and those which are not misleading in any respect. We believe that this provision should

be rewritten so as to prohibit only those manufacturers' promotions which are found to be deceptive or misleading.

This Section and the provisions of Sections (e) (1) and (3) and (g) would make sampling and test marketing of new and innovated products difficult, if not impractical. Present security in marketing new products would be made much more vulnerable. As a result, the development of new products and innovations in existing products would be inhibited considerably.

A recent study reveals that only 8% of all new consumer products survive. The Hart bill could reduce the incidence of success to a point that would make product research and development unfeasible for many manufacturers.

We do not believe that this is what you and your colleagues mean when you say "consumer protection." We do not believe that the consumer wants or needs "protection" which would erase her savings on product purchases and impede the development of new products and new packaging innovations that make her life easier and more pleasant.

We are also opposed to the provisions in Section (e) of S. 387, which would put the right to draft additional regulations into the Federal Trade Commission and the Food and Drug Administration.

The language of this Section is sweeping. It permits the establishment of rigid controls on packaging and labeling practices, but it offers little or no specific direction to those who are charged with the responsibility of writing and enforcing regulations. For example, Section (e) says, in part, that whenever FTC or FDA determines that additional regulations are necessary "to make rational comparison with respect to price and other qualities, or to prevent the deception of consumers," they shall: (1) establish "reasonable weights or quantities"; (2) prevent sizes and shapes of packages which "may deceive"; (3) require "sufficient information"; (4) place information in a "prominent position."

These words offer little in the way of specific instruction, leaving to the whims of the promulgators the determination of precise definition of "reasonable," "sufficient," "prominent," and others. This is a dangerous precedent.

We believe that this Section and others should more accurately and specifically reflect the intent of Congress. The bill should in our opinion, precisely define the areas in which Congress wishes FTC and FDA to function. In its present form, it is a "blank check" made out to the two agencies.

Finally, we urge you and your Committee to reassess the packaging and labeling legislation and regulations already in effect. An examination of existing statutory provisions indicates that FTC and FDA now have ample power to control and eliminate the deceptive practices with which this bill is concerned. Most vigorous enforcement of existing laws and regulations should provide the protection proponents of Senator Hart's bill are seeking.

To summarize, A.A.A.A. is opposed to those provisions of S. 387 which would:

(1) impede legitimate merchandising practices which do not mislead or deceive the consumer;

(2) increase product costs to consumers by prohibiting legitimate sales promotion practices;

(3) tend to inhibit the development of new products and product innovations;

(4) give FTC and FDA almost undefined and unlimited powers over product labeling and packaging; and

(5) unnecessarily duplicate regulations already in the statutes.

We therefore respectfully urge that your Committee amend S. 387 so as to remove the above-mentioned faults on—this being im-

practical—report unfavorably on the bill in its present form.

Sincerely,

JOHN CRICHTON,
President.

(cc: Members of the Senate Judiciary Committee.)

BRIEF OF STATEMENT OF MILAN D. SMITH,
EXECUTIVE VICE PRESIDENT, NATIONAL CANNERS ASSOCIATION, WASHINGTON, D.C.

From articles in the Ladies' Home Journal, "Little wonder, then, that the canning industry has been called the 'industry which legislates for itself'. Never does this industry forget that it is dealing with food—with food, the thing of such vast consequence to the little family circle of the American home. In a very real way it realizes its responsibility and in a very real way it faces its responsibility."

Mr. Smith briefly summarizes the National Canners Association—"the principal objections which combine to support our conviction that S. 387 with respect to canned foods is unnecessary, will not serve the best interest of the consumer, will threaten to disrupt programs developed over decades of sincere industry effort, and may well greatly retard further improvement and development of the products of our industry."

Beginning at page 63, Part 1, March 7, 1963, Mr. Smith states as follows:

"In the first place, there is no evidence that it is necessary in the case of canned foods to grant this vast new authority for expanded and rigidly detailed regulations. The voluntary canning industry programs outlined in detail in our testimony a year ago have provided an effective framework for the packaging and labeling of canned foods that places primary emphasis on informing consumers as to the nature and quantity of the product.

"Our second objection to the bill is that existing laws are adequate to control any abuses that may arise. To say that enforcement of these adequate, existing laws is handicapped by proceeding on a case by case basis is, we believe, unwarranted.

"In the case of foods, there is authority for the establishment of detailed standards of identity, standards, of quality, and standards of fill of container. As we explained last year, there are a great many canned foods already standardized on the basis of proposals made by the canning industry.

"Such standardization is available in accordance with detailed procedures which permit prompt promulgation based on Government-industry agreement, and reasonable procedural safeguards for the resolution of any controversy.

"As to other areas of label control—such as the prohibition of any false or misleading label statement, the prohibition of deceptive containers, and the requirement of prominence in the label statement—the present law is pointed, adequate, and enforceable."

Mr. Smith then discusses, section by section, the bill showing where existing law is sufficient. He uses this quotation:

"Compulsory standardization would unnecessarily inhibit the competitive development of improved container sizes, shapes, and materials that provide significant consumer benefits and permit the rapid adjustment to changing trends in consumer tastes and preferences in various parts of the country. We cannot conceive of a compulsory standardization program that could on the one hand satisfactorily reconcile the complicated and interrelated factors bearing on container sizes and shape, and on the other hand permit the necessary degree of flexibility and change."

He also discusses the lack of procedural safeguards.

Commissioner Larrick's quotes on the can-

ning industry, page 796, Part 3, March 20, 1962:

"Our very first regulation in this area provided that the required labeling information may lack that prominence and conspicuousness required by the law by reason, along with other reasons, of 'the failure of such word, statement, or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase.'

"This, of course, is not a positive requirement for front-panel labeling, and we were met with the argument that there were other ways of achieving the objectives of the statute.

"About 20 years ago, for example, following meetings with representatives of the National Canners Association and label manufacturers, there was worked out a formula whereby, on a cylindrical can, the label could be made up in three parts; the main display panel and a rear panel using 40 percent each of the label space and an intermediate panel to be known as the consumer panel just to the right of the main display panel. This would take up 20 percent of the label and would contain the net weight, the name of the product, the list of ingredients, if required, and the name and place of business of the manufacturer, packager, or distributor.

"We have accepted labels which were made up following this formula but we have objected where the so-called consumer panel contained other wording if that served to minimize the conspicuousness of the required information.

"The canners association published a booklet for wide distribution to outline just what should be done to comply with the terms of the law, including those involving labeling. As a result, it is rare to encounter a canner's own label which does not meet the several requirements of the statute. Obviously, the formula which works so well for a cylindrical can would not be equally acceptable with packages of other shapes and probably would not work for most other types of packages. There is no reason why, if the facts justify however, other industries could not try to work out a way for the whole industry to meet the requirement of conspicuousness."

BRIEF OF STATEMENT OF D. BERYL MANISCHEWITZ, CHAIRMAN, THE B. MANISCHEWITZ CO., NEWARK, N.J., AND CHAIRMAN, MARKETING COMMITTEE, NATIONAL ASSOCIATION OF MANUFACTURERS

Beginning at page 553, Part 2, April 24, 1963, Mr. Manischewitz states as follows:

"These regulations would prescribe not only the nature, size, and location of the printed and pictorial matter appearing on labels, but go further to enable the regulation of package sizes, shapes, volumes and, ultimately, we believe, the nature of the product itself which manufacturers may offer to consumers.

"While some have been designated as mandatory upon the enforcing agencies, and others as permissive, the enabling power is present and our marketing people have no illusions as to the sweep of market controls intended under the bill. To give vitality to the act, the so-called permissive regulations must be used—for there is no other way in which the enforcing agencies can serve the purpose of the bill. * * *

"We feel it necessary to enter this point because we have noted flamboyant and inaccurate statements that when goods are offered in varying quantities, the unit price 'half the time' is the same regardless of package sizes.

"One witness has charged that producers faced with higher costs reduce the quantity rather than the prices of their products 'for the sole purpose of misleading the consumer.'

"Extreme statements of this type find their way into published reports and are themselves a deception. They not only damage consumer confidences in all our commercial institutions, but induce demand for Government controls which will prove, in our opinion, far more damaging to the consumer and to the economy than any abuses which may now exist.

"From a legal point of view, the bill offers the consumer no broader protection from false and misleading matter than that now supplied by both the Federal Trade Commission and the Food and Drug Administration, and is therefore a needless proliferation of Federal laws.

"It does, however, change the whole nature of our antitrust laws. We find it is not a law to prevent 'deception,' not at all, but to prevent alleged 'confusion' of shoppers in choosing from a variety of consumer goods.

"From an economic point of view, we believe that the proposed regulations in the long run will lessen competition, increase the cost of distribution and inhibit technological innovation and national growth.

"From the standpoint of efficient production and marketing, the manufacturer and marketer will find compliance with the bill not only prohibitive in cost, but in some cases, technically impracticable to apply.

"For the consumer, who has an interest in all these viewpoints, enactment of the proposals can be expected to reduce the number, variety, and quality of the goods he buys. It will tend to increase prices both immediately and in the long run.

"Laws like these, in fact, not only would fail to help the consumer make a wise choice of goods, but would act to regiment consumer choice. * * *

"While the power of the statutes of both the FTC and the FDA are clear as to false, misleading, and deceptive practices, we offer in further substantiation the concise and forthright testimony of the chief officers of those regulatory agencies.

"On March 28, 1962, Chairman Paul Rand Dixon of the FTC cited specific instances of his agency's experience in protecting the consuming public from false and deceptive packaging practices, and made this unequivocal statement:

"There can be no doubt that the Commission's general power under existing law would authorize it to issue such (cease and desist) orders when false or misleading packaging or labeling result in consumer deception."

"More recently, the Commission Chairman has said he nevertheless welcomes the passage of this bill because at present 'the Commission must, based upon reliable, probative and substantial evidence, find that the practice is likely to deceive the public.'

"Under this bill, no such evidence is required. We submit that, to the contrary, Government agencies should not be empowered to hold a business practice wrong without being required to prove it so.

"As all know, the Federal Trade Commission Act broadly and fully empowers the Commission to prevent 'unfair methods of competition in commerce, and unfair or deceptive acts or practices in commerce.'

"Under this act, the FTC has successfully moved to prohibit an almost limitless range of commercial practices—from fraudulent warranties to television commercials. In these cases, some practices were subjected to court review and of these some were curbed, but under this bill, they would have received no review by the courts.

"On April 3, 1962, Commissioner George P. Larrick, of the Food and Drug Administration, testified: 'The Federal Food, Drug, and Cosmetic Act, enacted on June 25, 1938, is fundamentally a consumer measure. In addition to requiring that foods be clean, sound, and wholesome, it has provisions designed to inform the consumer about the food in the

package and thus permit her to make intelligent selections at the marketplace.'

"Commissioner Larrick further spelled out the more specific requirements of the Food and Drug Act as to identity, quality, and fill of containers; as to location of printing and graphic matter; as to deceptive packaging; as to legibility of the disclosures, and other requirements. We observe that while Commissioner Larrick has also endorsed this bill, he rests his testimony likewise upon the difficulty of proceeding in the courts on a case-by-case basis.

"Again we state our belief that the Congress should pause before delegating to administrative agencies not only more of its own powers, but the power to abrogate the rights of citizens to a fair trial based upon the law and the truth.

"The difficulty of case-by-case enforcement is not a justification for this new law. The fact that the Government has lost several cases distorts the true picture—since the record is clear and indicates that thousands of FDA complaints are settled by consent or without litigation at all. * * *

"In sum, with the adoption of this bill we can look forward to an era of confusion within both Government and business. The FDA not only will be sharing antitrust responsibilities with the FTC, but it will be administering a completely new antitrust concept based upon terminology which is also not only new, but indefinable. * * *

"This language would set up as a Clayton Act test, the phrase 'reasonable opportunity to make rational comparisons' to supplant that of a 'substantial lessening of competition' or a 'tendency to create a monopoly.'

"We believe it would be many years before the courts arrive at understandable interpretations of such new terminology.

"Finally, in certain other rules the basic standard of 'deception' is introduced, as in the case of (c) (6) relating to a pictorial matter, and also (e) (2) controlling sizes and shapes of containers themselves. We believe it significant that the most ardent proponents of this type of legislation, under questioning, sought to justify their views by falling back upon the key concept of 'deception'.

"It is difficult to understand why the test of 'deception' was introduced into some, but not all, of the sections of the bill.

"We believe the Congress also should consider the testimony of another major witness, Mr. J. Lyle Littlefield, chief of the Foods and Standards Division of the Michigan Department of Agriculture. Mr. Littlefield, with great experience in consumer protection, responded to questions concerning inadequate labeling of the contents of packaging, which is at the heart of this bill, as follows:

"Well, we have to rely on this term 'conspicuously labeled' and this becomes a matter of opinion as to what is conspicuous. And maybe you can see it a foot away and maybe I can see it 2 feet away, and this becomes one of these decisions that finally has to be resolved in some court. And we have had one of these cases where one of the witnesses said, 'Well, I cannot see this,' and the judge said, 'I cannot either.' And in this case he said it was not conspicuous. But I think each case has to stand on its own merits."

"Our statement has added the emphasis to this final conclusion of Mr. Littlefield because we agree also that in matters where the issue is deception, each case must stand on its own merits, as now required in existing law. * * *

"Even so, we find the issue of price competition versus nonprice competition a false economic issue. The critics of 'confusion' assume that 20 competing varieties, sizes, and shapes of a standard household product are all manufactured and displayed on a supermarket shelf to appeal to the individual customer.

"The fact is, our product and our package diversification are not designed to appeal to one 'typical' consumer. The purpose, as any marketer knows, is to appeal to 20 highly individualistic consumers, each with differing ideas of the values he wants. * * *

"Contrary to testimony regarding any exceptions before this committee, producers of volume packages are simply offering more goods at smaller unit prices to appeal to those who seek maximum savings. We do not understand how this can be considered in any light other than pure, hard, price competition. * * *

"If costs of production and distribution were excessive or growing because of wasteful packaging, unwise use of resources occasioned by irrational buying, or monopoly forces, it is not evidenced in the price-wage ratios of our national statistics. The fact is that—with increased quantity, quality, safety, convenience, esthetics, and other values we receive—we as a nation are spending less of our total wages on food than any people in history, and it is declining. * * *

"Controls inevitably bring more controls. During World War II, it was deemed desirable to impose price control. But price control could not work without corresponding control of wages, a major ingredient of price. And wage control could not work without production control and manpower control. In the end, we had forbidden the free movement of our citizens.

"Today, in a peacetime market, the Congress is being asked to place the force of the Federal Government behind a drive to promote net quantity over any other value of the package. It is idle to debate whether this sustained emphasis will not influence the character and composition of the contents themselves. * * *

"Thus, as in our wartime experience with price controls, we will have a pattern for control of the American market.

"You cannot control the label without controlling the package.

"You cannot control the package without controlling the quantity.

"You cannot control the quantity without controlling the composition of the contents.

"You cannot control the contents without controlling the allocation of the resources of our society, and limiting consumer choice.

"Lastly, we ask you to remember that the restrictive rules will be imposed upon small manufacturers as well as large. Large concerns have no monopoly on ingenuity, particularly in the merchandising field. In fact, our experience is that the small producer or marketer relies more heavily upon innovation than the large company for maintaining his market or entering a new one.

"In this situation we can think of nothing the Government could do which would lead more surely to the supremacy of leading manufacturers in national markets, and the disappearance of their smaller competitors. * * *

"We find this bill is not a truth-in-packaging bill. It is a compulsory standardization bill. It has been admitted that the bill is not directed at untruthful labeling. Standardized packages mean standardized products and standardized quality, and we believe no housewife wants that. Regimentation of the product is regimentation of the housewife. * * *

"As we have seen, the Federal Trade Commission and the Food and Drug Administration, in addition to programs for voluntary compliance, are fully empowered to outlaw any deceptive package. The FDA may even seize such packages to prevent their sale.

"These are not the only police powers of government. The Columbia Law Review has stated that in the Federal Government alone 21 agencies are involved in policing advertising. Nearly every municipality has its sealer of weights and measures. Every State has controls in this area, and 43 or more have

adopted the famous 'printers' ink' statute of 1911 prohibiting deceptive statements. In every State, too, there are common law remedies against deceit, fraud, and breach of contract or warranty."

BRIEF OF STATEMENT OF E. SCOTT PATTISON, SECRETARY AND MANAGER, THE SOAP & DETERGENT ASSOCIATION, NEW YORK CITY

Mr. Pattison at page 597, Part 2, April 24, 1963, states as follows:

"The first point that I would like to make is that the buyer of soap and detergent products is already fully protected from any significant economic loss from deceptive packaging or labeling:

"Now, the reason for this is that in every soap and detergent package there is one un-failing built-in protection against the economic cheat. That is, no producer can build a successful business on a one-time or first-time sale.

"Unlike the snake-oil man who comes into town and gets out, the soap manufacturer has to be back on the shelf talking to his customer again and again. Repeat business, the act of coming back for more, is the key on which products and their packages must justify themselves. A housewife may be spending \$100 a year on such products, but does so in increments of 50 cents or so per unit. A product or package which fails to deliver goods value, however, conspicuously labeled as to weight, is headed for failure. Nothing can be gained by marketing a product which gets action at the store, but reaction at the sink. When the housewife says 'never again,' the producer has been disciplined by a force more potent than the FTC.

"When it comes to a truly rational comparison between competing products in the soap field, the housewife must be standing at the sink or washer, not in the store. A comparison between weight or volume of brand A detergent and brand X detergent is meaningless. The cleaning satisfaction per dollar is a highly individual thing, depending not only on product composition but on individual habits of use.

"I might point out here that our products are generally jointly used with other things. For example, you use a detergent product in a particular type of washer, with a particular water temperature, particular type of soil or clothes. * * *

"Now, my second point for particular emphasis is this: * * * the cleanliness value per dollar being delivered to the housewife today is greater than ever * * *.

"Third point has to do with 'cents-off' labeling and at that point he quotes Dr. Irston R. Barnes, Economist of the Graduate School of Business of Columbia University that 'cents-off' promotions are valid * * *.

"My fourth point, and I think one that should be of great concern to this committee is this:

"Many features of this bill will be particularly damaging to the smaller or newer producer who must depend on innovation in his product or package to get his business going—as compared to the mass production economies of a large, well-established competitor.

"Here, I would like to quote briefly from one of our members who was a small company until just a few years ago, and has now substantially enlarged his household soap and detergent business:

"Disallowing 'price-off' labels or other price promotions, standardizing packages and packaging language, standardizing what constitutes a serving of a product, and standardizing other quantitative standards for products, would serve as a real deterrent to new entries into the competitive arena and to small concerns already struggling to achieve a foothold.

"The new firms and the small firms must, if they are to survive, innovate, offer im-

provements in package and/or product, and they must extensively promote their wares. This proposed legislation would practically emasculate such efforts as it would require the new and the small producer to standardize and this, in most instances, is the exact opposite of innovation and giving the customer something new, different, and exciting. Thus, the incentive for new and small concerns would be drastically reduced."

"This is a statement from a company that over the past 7 or 8 years has gone exactly through this stage of development.

"Note, too, that Dr. Barnes, who was previously referred to, cites cents-off promotions as giving a smaller competitor 'a fighting chance against his larger and well established rivals.'

"My fifth and concluding point is simply this:

"It would appear that S.367 is not motivated by any substantial evidence of consumer losses, or deprivation resulting from such losses, so far as cleanliness products are concerned. Rather, it is motivated by a theoretical economic philosophy that promotional competition—involving differentiated products, and a deliberate differentiation of products, and packages—is somehow 'impure' competition and disadvantageous to the buyer.

"Here we must come to grips with the faulty economic concept behind this bill. Back in the 1930's a Harvard economics professor theorized that standard, or virtually identical products, competing on a direct price-per-pound basis, would somehow be best for the customers' interest. This, in contrast to the kind of competition that operates through product differences, products improvements, and the promotion of these exclusive benefits to the users."

BRIEF OF STATEMENT OF THOMAS F. BAKER, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER, AMERICAN BOTTLERS OF CARBONATED BEVERAGES, WASHINGTON, D.C.

Mr. Baker, beginning at page 604, Part 2, April 24, 1963, states as follows:

"The soft drink industry consists of approximately 4,300 independent businessmen who manufacture and package a food product. These enterprises are local in nature and small in size. They are to be found in some 1,800 communities across this country, and, as determined by the 1958 Census of Manufacturers, 75 percent of these plants employ 20 or fewer employees. Combined, they annually add more than \$1½ billion in wholesale value to the U.S. economy. At retail, the value of their yearly volume is in excess of \$2 billion. * * *

"* * * the first and most significant fact which must be considered is that the industry, our industry, employs a reusable container; that is, a container filled by the bottler and distributed through the retailer to the consumer, and then returned through the retailer to the manufacturer for refilling and reuse. The single trip, disposable container was unknown to soft drinks for both technical and cost considerations, generally speaking until 1954. * * * 95 percent of this industry's volume today still remains in a returnable, reusable container. There are many reasons for adherence to a uniform type of package in our industry, among which are product recognition, invested capital in manufacturing and material handling equipment, established distribution methods, and requirements of containing protecting, and displaying the product; but perhaps the primary reason can be found in the final cost of the finished product. * * *

"* * * At the present time, the soft-drink industry has an estimated stock of more than 28 million gross reusable bottles and cases in inventory, representing an investment in excess of a quarter of a billion dollars. * * *

"Section 3A(e) (1) of the proposed legislation, as now written, would empower a Government agency with the authority to wipe out a considerable segment of that investment, we believe, with a regulation establishing quantities not necessarily representing those container sizes in float.

"This industry does not claim to know the ideal quantity in a one-drink package, a multiple drink package, or a party size container. In fact, quite the contrary is apparent in that each manufacturer believes he has a better answer than does his competitor. But after generations of experience, hundreds of thousands of dollars invested in consumer studies and research, and with one-half billion dollars in capital equipment riding on our judgment, we do believe we know more about the collective consumer preference in soft drink sizes than any other source in being. A satisfying amount to be consumed from a vending machine by a truck driver is not the same as the amount desired by a housewife during afternoon cards. * * *

"Subsection (e) (2) is alarming in that it would seem to enable a Government agency to restrict package size, shape, and dimensional proportion if unspecified conditions of deception are present. We do not quarrel with the legislative intent of this section, but we are seriously concerned with the unbridled authority it would create. Whether a package may convey some element of deception, considering the requirements of containing the product, technical requirements of filling and handling, and despite the desirable and necessary properties of distinction, appeal, and attractiveness, is clearly difficult to determine. * * *

"Although we do not believe that section 3A(e) (3) would work serious injury at this time to the soft drink industry, we express concern over its provisions as it would attempt to establish a Government censor. We profess not to know the difference among 'giant size,' 'king size,' 'large size,' and 'super size.' We do not believe the Federal Government is any more qualified to designate how large 'large' is, or should be, or must be, than it is to categorically define a 'stately' home, a 'luxury' automobile, a 'fast' horse, or a 'beautiful' view. * * *

"Section 3A(c), requiring mandatory regulations, is undesirable almost in its entirety. Subparagraph 1 of that section ignores completely the question of how hundreds of millions of reusable packages in the industry are to be recalled and relabeled. * * *

"We confess not to know which is the front panel on many of this industry's products which are displayed under varied circumstances. If a bottle is offered to the consumer in an open-top cooler, the crown or bottle cap is generally the only surface exposed to the purchaser. * * *

"Subparagraph 2 contains the same basic doctrine of punishing the many for the convenience of catching the few. * * *

"Mr. COHEN. * * * In other words, its flexibility, the necessity of the administrator, first of all, to show necessity; second, the compulsory consultation, so that your technical problems are taken into consideration; third, the use of the Administrative Procedure Act provisions under the bill and as Senator HART has indicated, the possibility of formal hearing procedures at least insofar as a few of these provisions are concerned? Don't you think this flexibility, these safeguards would pretty much take care of the expressions of concern that you express to this subcommittee?

"Mr. BAKER. I do not really believe so, Mr. Cohen.

"I believe, first, you have got to show a need for the legislation, and I do not believe that has been demonstrated, in our industry's opinion.

"Certainly, if such legislation does, in fact, become the law of this land, then it must necessarily take into consideration the various relief, special cases that exist.

"I think it was Mr. Cohen with Food and Drug, who, during these hearings when commenting on the necessity for a hearing under these various areas, indicated that they would not, in their opinion, in every case, find it necessary to hold a hearing or review when developing a standard for a product or package. We believe a regulator views his job under any regulation as a requirement to regulate and in many cases despite qualifying remarks, criteria, or exemptions, his action would appear to go beyond the intent of the legislative requirement.

"Mr. COHEN. If the formal hearing procedures were to be written into the bill, at least insofar as (e) (1) and (e) (2) were concerned, would this help to assuage the concern you have over this bill?

"Mr. BAKER. I believe the consumer is entitled to know that he is not going to be taken advantage of or deceived. I do not believe again, in all sincerity, that the need for the legislation has been established, and just by picking at various areas here and saying if we do that would it make it acceptable, I do not believe the bill itself is acceptable. So any language that you put in there I do not believe makes it any more acceptable. * * *

"Senator HRUSKA. Of course, however you dress it up, Mr. Baker, the provisions here with reference to consultation before regulations are put into the law, regardless of how you dress it up, it is still the Food and Drug Administration legislating, is it not?

"Mr. BAKER. That is absolutely right.

"Senator HRUSKA. And it is a little bit hard for some people to understand why a legislative process in such a very important area involving so many things should be vested in a Bureau, the members of which, and the administrators of which, are not responsible to the people of the United States. They never have their names on ballots, do they?

"It is a chastening proposition to have a name on the ballot now and then. It amounts to saying to the electors, does it not, 'Boys and girls, how am I doing?' Sometimes they say, 'No, we don't think you are doing any good,' and we do not have this factor here.

"The language in the bill is that persons who would be affected should have reasonable opportunity 'for consultation.' It does not say hearing, does it? A hearing is different from consultation, is it not, Mr. Baker, in your opinion?

"Mr. BAKER. This is what concerns us. We do not know what criteria will be set down.

"Senator HRUSKA. If you received a letter from the Administrator of Food and Drug, and he says, 'We are proposing to limit all bottle sizes to 6 ounces or 8 ounces and 16 ounces, please give me your views, or wait 5 days for an answer,' have you been consulted in that area?

"Mr. BAKER. No.

"Senator HRUSKA. Certainly not to an effective degree, have you?

"Mr. BAKER. We have not been consulted at all if the letter is the first evidence that they are even thinking of that.

"Senator HRUSKA. They ask you for your views.

"Mr. BAKER. Oh, yes. No, we have not been consulted.

"Senator HRUSKA. I suppose that could be changed to hearing but the books are full of those things on administrative law and, of course, many of us know that far too often by the time the hearing stage is reached the thinking of the bureau or the agency or the administrator has become pretty well crystallized and it is very difficult to overturn.

"On page 2 of your statement you get into this matter of reusable containers. You say that there are great investments in capital, manufacturing, material, handling equipment, distribution methods and so on, and those would all be put in potential jeopardy by vesting in a bureau the idea that that can

say, 'we want this kind of a package or that kind of a package.'

"Could you elaborate on that a little bit?

"Mr. BAKER. Yes, sir.

"Senator HRUSKA. As to the things that are involved.

"Mr. BAKER. The whole manufacturing, inventorying and distribution system in the carbonated beverage industry is tied into the container. The speed of your filling line is geared to the size of the package, the bottle, the length of time it takes to go through the washer, the number of washing compartments in your washer, is a gauge as to how fast you can run your filling equipment, and how many people or what type of equipment you are going to have at the discharge and of the filling line; whether you have an automatic packer or whether you work from a scrambling table with employees or whether you employ materials-handling trucks, lift trucks, to take the palletized product and store it in the inventory area or if you take and load it directly on your trucks. The truck itself, the truck body, is designed for that type of container. Whether it is a number of decks or whether it takes a whole pallet at one time, all of this is geared to our package, and if you change the size, then you are going to affect our whole line and our entire manufacturing and distribution procedures and equipment.

"Senator HRUSKA. Of course, you would have to start in a factory that makes the bottle, wouldn't you??

"Mr. BAKER. That is right. The factory that you buy the bottles from.

"Senator HRUSKA. They would have to change their molds, their machines, and a host of the things which are very expensive equipments and which somebody would have to pay for, I presume.

"Mr. BAKER. We generally end up paying for those molds and those screens and things of that nature. They are part of the cost of the bottle.

"Senator HRUSKA. And, of course, even the size of iceboxes would be affected, wouldn't it, refrigerators?

"Mr. BAKER. The vending machines, for example have pockets in them. The automatic dispensing devices that are triggered with your nickel or dime or quarter, they are designed for a certain size bottle within a limit. If you were to change this or decree that it will only be that size bottle, then conceivably you could place into jeopardy thousands of dollars in these vending machines that are sitting around at every type of conceivable location.

"Senator HRUSKA. A little bit later in your statement you refer to this idea of maybe there might be prohibited pictorial matter on you labels or on your bottles. You mean to suggest maybe we will no longer be favored with the label portraying the land of sky blue waters, for example? On the idea that there is no land involved or no sky, no blue water? Do you suppose that is conceivable?

"Mr. BAKER. I think maybe you have in mind a competing product, but perhaps they might not be able to talk about the land of the sky blue waters.

"Senator HRUSKA. Of course, if that picture or that phrase would bring confusion into the minds of the customer, the man who makes that product might be pretty much on the defensive, might he not? It depends on who is construing the confusion. * * *

"Senator HRUSKA. Of course, in your own field, the pause that refreshes has some familiarity and maybe somebody might say, the way people drink Coca Cola, there isn't any pause, they just take it on the run. Therefore, we should not have the slogan 'The Pause Refreshes.' Would that make sense?

"Mr. BAKER. No. Not at all.

"Senator HRUSKA. All right.

"Mr. BAKER. Nor 'Twice as Much for a Nickel too, that this industry originated.'

BRIEF OF STATEMENT OF R. ALLAN HICKMAN, VICE CHAIRMAN, ALL-INDUSTRY PACKAGING ADVISORY COMMITTEE, DOW CHEMICAL CO., MIDLAND, MICH.

Mr. Hickman at pages 136 and 137, Part 1, March 12, 1963, cites specific conclusions and notes five rules by Modern Packaging magazine, and makes the following comments:

"The All Industry Packaging Advisory Committee does feel that the bill as drafted could bind industry too tightly to fit the regulations, and it could lose the flexibility needed in order to best serve the consumer. We understand that this legislation may make possible regulations which would establish standards of weights, of quantity, and of size of package. This is a major concern."

On page 139 he refers to the study made by Good Housekeeping Magazine—by Howard Trumbull of National Family Opinion.

When standardization of sizes is economically justified, it will come about without legal dictation. When it isn't so justified it can only result in serious disruption of the marketing process. Rigid standardization of size and weight is not in the public interest.

"Because of differences in bulk and specific gravities of products sold for the same purpose, standardization of both weight and of package size is impossible to achieve without rescinding the slack fill prohibition and we believe this last provision is a key one which should be enforced within the practical limits created by products settling after filling."

He quoted Mr. Lee Bickmore of National Biscuit Company, as follows:

"You can have standardized size or you can have standardized weight—but you can't have both."

He quoted Miss Madeline Holland, Associated Food Editor of the Chicago Tribune who said that housewives did not complain about deception, even though they did complain about other things. At page 144 he quoted Miss Holland, as follows:

"She walks down an aisle, making a decision from thousands of products, some of which were not there yesterday. When they reach her shelf at home, if they do not meet up with her mental conception of the quality that they are intended to have within the package, are not properly packaged, or labeled, this product will not stay on the supermarket shelf any length of time. In the end, despite any legislation, the housewife is the final arbiter.

"Shelf space is too expensive in today's supermarket. The profit and turnover is too low for any mislabeled or deceiving package that does not sell to last very long on supermarket shelves. We feel that existing laws are ample to take care of the situation providing funds are made available to the responsible departments within the Government to handle these."

The colloquy between Counsel Cohen and Mr. Hickman indicates a strong conflict as to what the bill, S. 387, will do. Mr. Hickman says:

"I am sure it is very possible that it could be reasonable. I think, however, Mr. Cohen, that one of the things that would be reasonable to me or reasonable to you, if you were running a detergent factory might not be reasonable to another person, because we are committed to machinery that makes a certain sized package, and, therefore, if my investment had to be doubled in order to meet what the industry said was not a reasonable size, I might think that that was very unreasonable."

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the text of this amendment be also printed in the RECORD.

There being no objection, the text of the amendment was ordered to be printed in the RECORD, as follows:

On page 20, line 8, delete all of said lines 8 through and including line 20.

Mr. DIRKSEN. Mr. President, that brings us down to the end of the line. While we suffer defeat, we go down in glory, and I believe we have made a record which it will pay House Members to peruse when they come to consider the bill. I hope they will do so. I wish to make a few other comments, but before I do so, perhaps I ought to first make my motion, in order to be in order.

Mr. President, I move that the bill be referred to the Committee on the Judiciary for further consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion to refer the bill to committee.

Mr. DIRKSEN. Mr. President, I wish to be heard on that motion.

Mr. President, Senator ROMAN L. HRUSKA and I have participated in the packaging and labeling hearings since June 28, 1961, when the investigative hearings on packaging and labeling were initiated by the Senate Antitrust and Monopoly Subcommittee under the acting chairmanship of Senator PHILIP A. HART. We have lived with this issue in the Antitrust and Monopoly Subcommittee and have been following it very, very closely when the subject matter was referred to the Senate Commerce Committee during the 89th Congress. It is apparent from the vote yesterday that extensive debate on this issue will not sway too many Members of this body. However, if there ever was a bill that has been mislabeled and misinterpreted and misunderstood, it is the pending bill, misnamed as the "truth in packaging" bill. Mr. President, I feel certain that thus far, considering the failure of the Senate last year to refer this bill to the Judiciary Committee for its antitrust aspects and the failure of the Senate yesterday to approve the Cotton amendment which would have deleted the standardization and regimentation provisions of the bill known as section 5 (d), (e), (f), (g), the Senate's action is an indication that not only do the Members of Congress have to be educated on both the apparent and hidden dangers of S. 985 but also the general public. I add the general public because rarely have I seen a bill that has had so much commotion without just cause from the administration and from several groups who have sponsored this bill but so little response from the public itself as to the need for such a bill that it has become apparent to me that the consumer public should be educated to the fact that this bill is going to cost the consumer in higher prices for the packaged products he buys at the marketplace. We have prepared several special memorandums on this subject alone which will be made a part of the record in the debate of this bill. We hope that the consumer public will read it very carefully because we cite documented statements to prove the point and not just cliches.

Mr. President, I would like to warn the Members of the Senate who still have an opportunity to vote to send this

bill back to the Judiciary Committee and to the Members of the House of Representatives, who will have to tackle the intricacies and complexities resulting in great dangers to the consumers and the manufacturers, that this bill will come back to haunt the Members of Congress if it is passed into law. Let me give a precise example. In 1956 the Members of the House of Representatives had before it a bill which was entitled "Equality of Opportunity" type of bill and the Members of the House obtained the sufficient number of signatures to bypass the Rules Committee and bring it to immediate attention in the Chamber of the House and the Members of the House proceeded to vote 393 for the bill and only 3 against the bill. Luckily, time ran out in that particular Congress and a new bill had to be introduced the following year. When the Senate Antitrust and Monopoly Subcommittee began hearings on a similar bill in 1957, several Members of Congress who were among the 393, who voted for that bill, came before our subcommittee and begged us to defeat the bill because it was a bad bill; that they were hoodwinked as to its impact; and they did not realize the many hidden dangers in said bill. Mr. President, that bill never became law because the Members of the Senate and the House then realized that a good sounding name bill, in many instances, is a very dangerous bill for Congress to pass.

Briefly, Mr. President, we have prepared memorandums on the specific issues of the bill which we believe will help educate Members of the House of Representatives and the general public. They are as follows:

First. The cents-off promotion is a cash savings to the consumer.

Second. S. 985 will add hundreds of millions of dollars a year additional cost to the manufacturer which necessarily must be passed on to the consumer.

Third. A memorandum showing that the consumers have been misled that this is a consumers' bill whereas the consumer will have to pay higher prices.

Fourth. Memorandum showing that the Food and Drug Administration and the Federal Trade Commission by their own quotes have sufficient authority under existing law.

Fifth. That there are our antitrust implications in the bill and that the bill should be referred to the Judiciary Committee and its Antitrust Subcommittee.

Sixth. Conflicting and hidden meanings and interpretations of the packaging bill.

Mr. President, there have been memorandums submitted in the RECORD in the past 2 days and some will be added today, dealing with the overall subject matter as to why S. 985 is bad for the consumer, bad for our economy, bad for the worker in the field of packaging and labeling, and bad for the manufacturer. Senator HRUSKA and I submitted our individual views starting at page 36 through page 103 in the report of the Antitrust Subcommittee on S. 387, the predecessor bill to S. 985. Also, many editorials, letters, and telegrams have been insterted into these reports which

we hope will be fully digested by the Members of Congress and the general public.

Mr. President, some of us have tried today to warn the Congress and the public. At least, we have fulfilled our obligation in this matter.

I firmly believe that the bill should be referred to the Committee on the Judiciary, because with the powers and the authority incorporated in the bill, and the possibility of making various agreements, a rather consistent course ought to be plowed.

Early this year, when the President was seeking to enlarge the cooperative effort among banks and money lenders, in the hope of more effectively solving our balance-of-payments problems, he said, in his state of the Union message:

I request the Congress to grant a statutory exemption from the antitrust laws to make possible the cooperation of American banks in support of our balance-of-payments objectives.

The same Subcommittee on Antitrust and Monopoly Legislation which has avoided S. 985 thus far, held hearings on the administration bill S. 1240 and H.R. 5280 with Chairman PHILIP HART presiding. Under Secretary of the Treasury, Joseph W. Barr, testified as follows:

At the present time, the Federal Reserve guidelines are of quite a general type. The situation could arise, however, where more specific guidelines seem desirable and where some explicit agreement among banks to observe them also appears desirable. Such an agreement in the absence of the requested exemption would put the banks in jeopardy of violating the law.

The banks and the other nonbank financial institutions have had considerable experience with the operation of the antitrust laws particularly in connection with mergers. They are quite sensitive to the risk of violating the law, even inadvertently. Therefore, their full cooperation in the voluntary program could be blunted in situations which they think might expose them to charges to antitrust violation.

A foreign applicant for a loan facing a series of refusals from a number of banks in the same community might charge them with a violation of the antitrust laws. Banks naturally do not want to expend time and money in having to defend themselves against such suits. Hence, while their inclination might be to refuse the loan within the spirit of the voluntary cooperation program, they might hesitate to take such action if it might possibly be construed as the result of an interbank understanding.

Deputy Attorney General, Ramsey Clark, also testified, stating:

It was recognized by the President that, in the case of the financial community, something more than individual action might ultimately be necessary. Because of the factor of joint participation in large foreign loans, caution dictated the availability of authorization, on a standby basis in case of need, for a voluntary program of joint discussion and joint action by financial institutions to insure that the President's objectives will be carried out. Since such a program could have antitrust implications, the need for the antitrust exemption embodied in this bill is evident.

If President Johnson can urge and Congress enact a law to protect the banking and lending industry from possible antitrust prosecution and/or implications because of their participation in a

voluntary program on balance of payments, certainly the U.S. Senate can show the same fairplay and protect all manufacturers—big and small—from possible antitrust violations for participating and cooperating in a voluntary program to meet the requirements of section 5 (d), (e), (f), and (g) of S. 985, by referring S. 985 to the Senate Antitrust Subcommittee for study and possible amendments to give them the necessary protection from antitrust violations.

Mr. President, one may ask for documentation of possible antitrust implication in the provisions of section 5 of S. 985. On page 11 of the Fair Packaging and Labeling Act report, May 25, 1966, Deputy Attorney General Ramsey Clark stated as follows:

We note that section 3(c)(1) authorizes the promulgation of regulations to establish reasonable weights or quantities in which commodities shall be distributed for retail sale. *Since standardization could, in some instances, have an anti-competitive factor, the provision appropriately confers a discretionary authority which, in its exercise, may take into account the impact of any such regulations on competition.* (Emphasis ours).

However, Mr. President, we should refer this—antitrust—anticompetitive factor in standardization to the Senate Antitrust and Monopoly Subcommittee for full study and a possible exemption from the antitrust laws written into S. 985. As recognized by some antitrust cases participation and/or cooperation in an industrywide standardization of products could facilitate price uniformity, thus giving credence to an inference of price collusion in violation of the antitrust laws. In the case of *Milk and Ice Cream Can Institute v. FTC* at page 482 the Court said:

Much is said by petitioners concerning their claim that milk and ice cream cans are a standardized product. From this it is argued that uniformity of price was a natural rather than an artificial result. An argument of this kind has some merit as to certain products, such as sugar, salt, oil, etc., where the product from its nature is standard. We doubt, however, if there is any merit in the contention that a can is in such a category. We think it is true that they were standardized in the instant situation, but this was the result of the activities of the Institute and its members. In fact, there was a continuing effort and urging on their part that the cans be manufactured in uniform classifications. It may be, as argued, that much of this effort was to comply with various governmental regulations and for health purposes, but the fact still remains that it was easier to reach the goal of uniform prices on a standard product than on one which was not. The meticulous effort disclosed by the record by which petitioners standardized their products is also a strong circumstance in support of the Commission's finding that their activities were the result of an agreement.

In *C-O—Two Fire Equipment Company v. U.S.* (197 Fed. 2d 489), page 493 the Court said:

The standardization of product among the four defendant corporations named in the indictment is pointed to by appellee (The Department of Justice) as another plus factor in the chain of circumstances that points to the conspiracy alleged.

It is the contention of appellants that this standardization and substantial identity of

product serves to explain the admitted price uniformity in the industry during the pertinent period. We think, however, that such standardization of product that is not naturally standardized facilitates the maintenance of price uniformity. See *Milk and Ice Cream Can Institute v. Federal Trade Commission*, 7 Cir., 152 F. 2d 478, 482. The appellants seek to rebut such conclusion and any inference of combined action that may arise therefrom with the testimony of their witness, Allen, that "we are required to meet standards set up by the Underwriters Laboratories in this respect, that we are required to put out certain sizes in order to obtain certain ratings." * * *

The two above quotes, especially the one in the *Milk and Ice Cream Can Institute v. FTC* case, gives a clearer understanding of the possible danger of antitrust implications in voluntary programs to standardize products. During the investigative hearings the Chairman of the FTC, Paul Rand Dixon, had the following colloquy with Chairman HART:

Senator HART. Does the Trade Practice Conference that you mentioned provide a means whereby this could be achieved without antitrust complications?

Mr. DIXON. It does, unless we serve as a vehicle and become particeps criminus to a price-fixing arrangement, and there is a danger in that. [Emphasis ours.]

Thus, we believe that the Senate should refer S. 985 to the Subcommittee on Antitrust and Monopoly Legislation so that Chairman Paul Rand Dixon may appear and more fully explain the danger he referred to in the above quotation. Also, Deputy Attorney General Ramsey Clark should appear before the subcommittee as he did in the hearings on the balance-of-payments program and further explain the above referred to quote on standardization and on antitrust implications which may result therefrom and whether a specific exemption should be written into S. 985. This later point becomes more significant since in section 11 of S. 985 it is clearly stated that the bill does not repeal, invalidate, or supersede any Antitrust Act. We say that in order to be fair as we were in the balance-of-payments bill a specific exemption from the antitrust laws should be studied at this moment by the Senate Antitrust and Monopoly Subcommittee and report its findings to the Senate for appropriate action.

We ask support on the referral motion on a bipartisan basis, irrespective of the individual views of each Senator on the merits of the fair packaging bill.

Mr. President, last year during the debate on a motion to refer the packaging bill to the Judiciary Committee, the distinguished chairman of the Senate Antitrust and Monopoly Subcommittee, Mr. PHILIP HART, had this to say on February 4, 1965:

It is conceivable that the Commerce Committee in its analysis of the bill and in its determination, would report a bill which should go to one or more of the antitrust laws. In that case, clearly it should go back to the Judiciary Committee.

On February 19, 1965, he stated:

Mr. HART. Mr. President, several weeks ago, when the bill was introduced, and the question first developed, I indicated that I felt that at this juncture it would be inappropriate and indeed undesirable to direct the reference of this bill to any committee other than the Committee on Commerce. It may

well be that in the form reported, if at all reported, by the Committee on Commerce, the bill could be referred to some other committee, including the Committee on the Judiciary.

The Committee on Commerce would not in any wise undertake to amend any of the antitrust laws. Clearly, the bill at the table is a subject for consideration of the Committee on Commerce. The worst that could be said for the precedent, I suggest, is that proposed packaging and labeling legislation, which everyone agrees should go to the Committee on Commerce, should also be referred to some other committee afterwards because it may have some secondary implications.

Mr. President, certainly S. 985 as reported by the Senate Commerce Committee has those secondary—primary as well—implications Senator HART referred to above. S. 985 has been amended in section 5 by the Commerce Committee to provide for a voluntary program of voluntary product standards. This amendment definitely has antitrust implications as noted in the earlier portion of this memorandum citing specifically the President's and the Attorney General's views that possible antitrust implications can result in the voluntary program on the balance of payments. That same principle can be applicable to a voluntary program on product standards. We reiterate that the Department of Justice and the Federal Trade Commission consider standardization and nonprice competition as factors relating to antitrust law violations.

Joseph E. Sheehy, Director of the Federal Trade Commission Bureau of Restraint of Trade, on December 11, 1964, stated:

Standardization of product by industry action may "fit into a trade restraining pattern that brings it with the ambit of the law."

Mr. President, it would set a very bad precedent in the Senate if the Senators did not favorably vote to send S. 985, the Fair Packaging and Labeling Act, to the Subcommittee on Antitrust and Monopoly Legislation and its parent Committee on the Judiciary for a thorough ventilation of the many antitrust aspects of the so-called Fair Packaging and Labeling Act.

If there is one rule among our Senate rules that is sacred, that one rule is that a committee of the Senate should have an opportunity to study and debate major issues within its jurisdiction, and in this case, there is the issue of antitrust aspects.

It is known that in the past attempts have been made to bypass the Judiciary Committee on certain civil rights proposals, but some of us in the Senate, even though we may have been in favor of the proposed legislation, debated and voted to send said civil rights bills to the Judiciary Committee so that the rules of the Senate would not become a shambles and a mockery in this respect. The request of those of us who believe that it is absolutely necessary in the protection of the public interest that the antitrust aspects of S. 985 be thoroughly examined by the Senate Antitrust and Monopoly Subcommittee is based upon many good reasons and upon established precedent in other legislative proposals in the past. It should be

noted that under the rules of the Senate, the Judiciary Committee and its Antitrust and Monopoly Subcommittee is the appropriate forum to deliberate upon and report to the Senate on an issue which either affects specific antitrust laws or has antitrust aspects and implications attached thereto. It was on that premise that the Senate Antitrust and Monopoly Subcommittee on June 28, 1961, inaugurated its hearings on packaging and labeling practices. I quote from page 1 of said hearings, where Senator HART stated as follows:

Today we are beginning hearings on packaging and labeling practices of food and household products as they affect consumers. The consumer has a right to be able to find out what he is buying, how much he is buying, what it is costing on a per unit basis.

Senator HART, in order to establish appropriate jurisdiction for the Senate Antitrust and Monopoly Subcommittee to look into this matter, stated as follows:

This Subcommittee was authorized, as outlined in Senate Report 14, and I quote: "To examine, investigate, and make a complete study of the nature and extent of trade practices affecting consumers in a manner which tends or may tend to restrain competition * * * with particular reference to deceptive, misleading, fraudulent, or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing, and furnishing of goods and services to consumers."

Senator HART continues:

The importance of this subject matter is rooted in our free enterprise system itself. * * * In view of its effect on free competition, a trade practice may be unfair without being so intended. We are concerned with the impact of these practices on the consumer and, necessarily, on healthy competition in the marketplace.

Mr. President, throughout the course of these original hearings on the investigative end of packaging and labeling practices, they are innumerable references to antitrust aspects. Some of the leading antitrust lawyers of this Nation have testified during the course of these hearings as to those antitrust aspects and implications.

When Senator PHILIP HART introduced the first packaging and labeling bill, entitled "Truth in Packaging, S. 387" and again in his opening statements in the hearings on said bill, he stated as follows:

What does this bill attempt to do? It is an effort to bring up to date the antitrust laws by recognizing the emergence of a relatively new form of nonprice competition, packaging, and labeling.

Again, in Senator HART's majority report on S. 387 from the subcommittee to the full committee among other things he stated:

This bill (S. 387—now S. 985) then is in the tradition of the antitrust laws.

Further, he repeated:

This bill would bring the antitrust laws up to date insofar as the nonprice form of competition represented by packaging and labeling is concerned.

Mr. President, these are the very words of the sponsor of both S. 985 and the predecessor bill, S. 387. Other than certain minor changes, as most witnesses testified to, S. 985 purports to do what S. 387 was intended to do in the area of packaging and labeling. Then would it not be reasonable that there is sufficient issue of antitrust law in S. 985, irrespective?

Mr. President, when the chairman, his counsel, and several of the proponents of the said packaging bill reiterated that nonprice competition is the heart of the packaging and labeling bill and that it has antitrust law characteristics, then would it not be reasonable that there is sufficient antitrust law issue in S. 985 to warrant jurisdiction for the Judiciary Committee and its Antitrust Subcommittee to deliberate and resolve the antitrust aspects of said bill?

Mr. President, it would be well to define nonprice competition at this point through quotations from the testimony of Dr. Irston Barnes, a Columbia University professor, formerly of the Antitrust Division and the Federal Trade Commission, and a leading exponent of the nonprice competition theory and the antitrust laws, where he stated beginning at page 370 of the printed hearings, "Packaging and Labeling," March 30, 1963, as follows:

S. 387 (now S. 985) is directed to the correction of the competitive practices associated with the packaging of consumer products. Nonprice competition, with which the committee has been concerned, is a natural outcome of the development of supermarkets with an emphasis upon preselling. * * * Nonprice competition refers to all those forms of rivalry which are primarily concerned with diverting patronage from one seller to another without thereby increasing the advantages accruing to buyers. * * * A principle form of nonprice competition is product differentiation. Packaging is an important aspect of product differentiation and of nonprice competition. Packaging is essentially an extension of the advertising and promotional campaign. * * * The Federal Government's responsibility for maintaining the integrity of markets is more fully asserted with respect to the antitrust laws, which are directed to three purposes, all of which in some measure be furthered by the proposed truth-in-packaging bill.

Mr. President, according to Dr. Barnes, not one, not two, but three purposes of the antitrust laws will in some measure be furthered by the packaging and labeling bill. Whether Dr. Barnes' statement is challenged or not, the antitrust issue is there in the packaging bill which issue can only be resolved by the appropriate committee having jurisdiction over antitrust laws; namely, the Judiciary Committee.

During the hearings, the record was replete with statements by Chairman HART, his majority counsel, and certain witnesses that nonprice competition went to the very heart of S. 387. In Senator HART's opening statement on S. 387 he said at page 5:

What does this bill attempt to do? It is an effort to bring up to date the antitrust laws by recognizing the emergence of a relatively new form of nonprice competi-

tion, packaging, and labeling. We do this by amending the Clayton Act to provide a procedure by which guides can be established to prevent such restraints.

The fact that the new packaging bill, S. 985, has dropped the Clayton Act as its forum does not change one iota the major premise of Senator HART's bill which, we repeat:

Is an effort to bring up to date the antitrust laws by recognizing the emergence of a relatively new form of nonprice competition, packaging, and labeling.

Mr. President, when the chairman of the House Judiciary Subcommittee, Congressman CELLER, and Congressman GILBERT and MULTER reintroduced last year a similar packaging-and-labeling bill in the House, which bill was referred to the House Judiciary Committee, then would it not be reasonable that there is sufficient issue of antitrust law in S. 985 to require that the Senate also give jurisdiction to the Senate Judiciary Committee after the Senate Commerce Committee completes action on said bill?

Mr. President, it is not the reference to the Clayton Act that is controlling in the referral to committee, but the substance of the proposed law is most important in determining if antitrust matter is in the bill.

Mr. President, briefly I cite five additional references why Senate Judiciary Committee jurisdiction should be given.

First. Regulations promulgated by FDA and FTC under S. 985 fixing sizes and quantities of packages and product contents, on an industrywide basis, may raise problems of antitrust violation by industry members cooperating in such standardization. See speech by Joseph E. Sheehy, Director of FTC Bureau of Restraint of Trade, on "Pricing Problems," pages 7-8, December 11, 1964, standardization of product by industry action may "fit into a trade restraining pattern that brings it within the ambit of the law". Such antitrust conflicts are within the jurisdiction of the Judiciary Committee.

Second. The Department of Justice, in its report, recognized the anticompetitive effects of the standardization provisions in S. 985.

Third. S. 985's revised provisions in paragraph 4(b) as to hearing procedures under provisions of the Administrative Procedure Act for some but not all of the authorized regulations raises problems of administrative practice and interpretations of the Administrative Procedure Act which would normally be supervised by the Judiciary Committee which originated and reported on the Administrative Procedure Act in 1945. Senate Report No. 752, 79th Congress, 1st session, 1945; House Report No. 1980, 79th Congress, 2d session, 1946.

Fourth. The enforcement provisions of S. 985 which could impose penalties on business firms violating a final order of the Federal Trade Commission, paragraph 5(c), see 15 U.S.C. 45(1), require affirmative enforcement action by local U.S. attorneys and the U.S. Department of Justice, which are under the jurisdiction of the Judiciary Committee.

Fifth. S. 985's provisions for product standardization entails an interplay among various executive departments and agencies, including the Department of Justice, the Food and Drug Administration of the Department of Health, Education, and Welfare, and the Federal Trade Commission which warrants consideration by all committees with proper jurisdiction, and in particular by the Judiciary Committee. In a comparable instance, questions as to the amenability of food processors and grocery chains having meatpacking operations to various FTC and antitrust provisions were resolved by a statutory amendment considered by the Judiciary Committee as well as the Agricultural Committee of the Senate in 1957 and 1958. See Senate Report 1564, 85th Congress, 2d session, April 22, 1958, joint report of Agriculture and Forestry and Judiciary Committees.

Mr. President, in view of the above citations and the memorandum submitted, is it not reasonable to conclude that there are sufficient issues of antitrust law and matters affecting the Judiciary Committee and its subcommittees to warrant Judiciary Committee jurisdiction over S. 985? Let the Senate vote for such jurisdiction.

Let us now cite several examples of bills that were considered by one Senate committee and then referred to another Senate committee for action and vote before being permitted to be debated and voted upon by the Senate.

First. The communications satellite bill was referred to the Senate Aeronautical and Space Sciences Committee which, upon completion of its action on said bill, referred it to the Senate Commerce Committee. The Senate Antitrust and Monopoly Subcommittee, under the chairmanship of Estes Kefauver, requested permission to hold hearings on the antitrust aspects of the communications satellite bill which subcommittee held 9 days of hearings beginning March 20 through April 19, 1962, covering 757 pages of testimony and exhibits. Previous to that time the Subcommittee on Monopoly of Select Committee on Small Business of the U.S. Senate held 6 days of hearings from August 2 through the 11 of 1961 on space satellite communications covering 543 pages of testimony and exhibits. After this bill was reported to the Senate Calendar several Senators engaged in extended debate and at the end of which the Senate agreed to permit the Senate Foreign Relations Committee to study the communications satellite bill also. Thus, the Senate Space Committee, the Commerce Committee, Small Business Committee Senate Antitrust and Monopoly Subcommittee, and finally the Senate Foreign Relations Committee—five separate and distinct Senate committees held hearings on the communications satellite bill. The communications satellite bill was an important bill. If five committees could hold hearings on that issue, certainly the Members of this august body who believe in extended debate and full deliberation can approve a referral of the packaging and labeling bill to the Senate Antitrust and Monopoly Subcom-

mittee to study these serious antitrust implications noted above and hereafter referred to.

Second. In 1957 there was an amendment to the Meat Packers Act which would require that any chain store that gained 25 percent interest in a meat packer firm would be subject to the jurisdiction of the FTC as well as the Agriculture Department. In the House of Representatives that bill was referred to the House Agriculture Committee, however, the Senate bill was referred to the Senate Antitrust and Monopoly Subcommittee because of the antitrust implications in the bill. After the Senate Antitrust and Monopoly Subcommittee completed its hearings and it was reported from the Senate Judiciary Committee, it was debated in the Senate. During the course of debate, Senators became aware that there was also a serious issue affecting jurisdiction of the Agriculture and Forestry Committee and the Senate voted that it should be referred to the Agriculture Committee for further hearings.

After the hearings in the Agriculture Committee were completed, the bill was further amended and returned to the Senate, which passed the bill. There are two significant points: First, the Senate recommended to the Agriculture Committee that hearings be held on that bill; second, the Agriculture Committee held those hearings and placed in the bill an amendment which the Committee felt was necessary because of its expert knowledge in this matter. The amendment was accepted by the Senate.

We feel that the Senate should refer the packaging and labeling to the Antitrust and Monopoly Subcommittee for its expert advice on the antitrust aspects of the packaging and labeling bill.

Third. In several Congresses there was a bill that would grant a moratorium in the approval of mergers among railroad companies by the Interstate Commerce Commission. The Committee on Commerce agreed with the Judiciary's Antitrust Subcommittee that both should conduct hearings and have jurisdiction over said bill.

Fourth. There have been several instances when the Commerce Committee asked the cooperation of the Judiciary Committee to hold concurrent jurisdiction over several bills that the Commerce Committee was very much interested in but also come within the jurisdiction of the Judiciary Committee because of interstate compacts.

Fifth. There are many instances when a bill would be before one Senate committee and after hearings had been held and deliberations taken, it was decided to relinquish its jurisdiction to another Senate committee who would then proceed to hold hearings and take appropriate action on said bill.

The Senate has always been most cooperative in sharing with its committees jurisdiction over bills so that each committee could exercise its expert knowledge in the issues within the bill that would normally come before that committee. We say that the same courtesy should be given to the packaging and labeling bill. We who have lived with

the packaging and labeling issue since June 28, 1961, until the present time know that it is a very bad bill for many, many reasons which, throughout the debate of this issue, will be brought home most forcefully. But in order that Senators may fully understand all of the very bad effects of the packaging and labeling bill, we believe that they must have the advantage of the expert knowledge of the Antitrust and Monopoly Subcommittee on the antitrust implication of the bill.

Mr. President, some of us have put our serious objections to the packaging and labeling in writing. For example, in a committee print of the Truth and Packaging Report of the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, 88th Congress, 2d session, my individual views appear at pages 36 through page 85, and the individual views of ROMAN L. HRUSKA begin at 86 through page 103, making a total of 75 pages of arguments why the packaging and labeling bill is bad for the public, bad for consumers, bad for the workers, bad for the businessman, bad for the government, and bad for the economy.

When we deal with the voluntary agreements that are authorized and made permissive under the terms of the bill, we come full tilt abreast of the antitrust statutes. For that reason, it occurs to me that the Committee on Judiciary should have a further look at this measure. So, on the motion to refer to the Judiciary Committee, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MAGNUSON. Mr. President, I yield myself 1 minute.

Many points could be discussed in the Senate on the question of jurisdiction of the bill. But whenever the matter of jurisdiction of the Committee on Judiciary has been argued, the distinguished Senator from Nebraska [Mr. HRUSKA] has concentrated on the antitrust implications of the voluntary standardization procedures.

However, the bill now before the committee does not grant new authority for the development of voluntary standardization. The bill simply suspends FDA and Federal Trade Commission mandatory standard-setting authority for a 12- to 18-month period, to enable industry to take advantage of the voluntary standards procedures of the Department of Commerce authorized by an act of 1901, establishing the Bureau of Standards.

I believe this information clears up some of the discussion regarding the new antitrust implications of the voluntary standards procedures.

I also quote what the distinguished Senator from New Hampshire [Mr. COTTON] said yesterday:

In the years that I have served in the Senate, and in the years that I have served in the Committee on Commerce, I have rarely if ever seen a more constructive, careful or workmanlike job done on a piece of legislation by a committee than has been accomplished by the Committee on Commerce on this measure. The bill was gone over carefully, section by section and item by item. It was discussed in a spirit of cooperation. It was improved immeasurably.

This statement has been confirmed by the statement of the distinguished Senator from Illinois [Mr. DIRKSEN] that the bill has received a great deal of attention over the years.

This is what the committee did in submitting the bill.

Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, will the Senator from Illinois yield me 3 minutes?

Mr. DIRKSEN. I yield 5 minutes to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, this issue was discussed in detail in February 1965 when reference of the bill was made to the Committee on Commerce. For 3 years prior to that time, the bill had been before the Antitrust Subcommittee, for very obvious reasons.

At that time one of the justifications for the Antitrust Subcommittee's appropriation of over \$400,000 was this: The subcommittee plans to continue to examine, investigate, and make a complete study of the nature and extent of trade and commercial practices affecting consumers in a manner which tends, or may tend, to restrain competition in interstate commerce and fraudulent or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing, and furnishing goods and services to consumers.

For 3 years we labored with this bill, because inherently it involves antitrust features. The citations of cases on that point are legion.

Unquestionably, antitrust implications are inherent in the bill. We can best appreciate that by reading statements of the bill's proponents that packaging and labeling is an important form of non-price competition. Standardization could be an anticompetitive factor. This is what the proponents of the bill have told us, and it does not matter whether we agree with the theory or not. The matter boils down to this: antitrust issues have been raised in connection with the legislation.

In February of 1965, Senator HART said that in that event the Commerce Committee reported "a bill which should go to one or more of the antitrust laws, clearly it should go back to the Committee on the Judiciary."

It seems to me that to take a completely reverse position on the matter, now that we have completed the commerce aspects of the bill, is incongruous and inconsistent. More important, however, the committee that has expertise in the field of violation of antitrust statutes is denied a crack at it.

Mr. President, I hold in my hand a statement containing portions of the testimony and the argument made in February 1965, on this subject, plus other material and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

We have a riddle. When is a Senate bill that has antitrust implications not a Senate bill that has antitrust implications for the purpose of determining Antitrust Subcommittee jurisdiction? We hope that the

answer is never, but that is the issue here. We urge that the Senate refer S. 985 to the Senate Judiciary Committee and its Antitrust Subcommittee for action.

During the hearings before the Senate Antitrust Subcommittee this colloquy took place:

"Senator HART. Does the Trade Practice Conference that you mentioned provide a means whereby this could be achieved without antitrust complication?"

"FTC Chairman DIXON. It does, unless we serve as a vehicle and become particeps criminus to a price-fixing arrangement, and there is a danger in that." (Emphasis mine.)

Chairman Dixon did not fully explain the quote "and there is a danger in that." Certainly the Antitrust Subcommittee should now study this danger in view of the changes in S. 985 in executive session by the Commerce Committee. This is especially true in regard to Section 5, dealing with so-called voluntary programs, which has not been subject to public hearings.

This point becomes even more crucial when we recall the precautions voiced when President Johnson urged Congress to pass legislation providing for voluntary programs by banking and lending institutions to aid the "Balance of Payments" program.

The antitrust implications of such programs were stressed by the proponents. Senator Dirksen in his comments refers to the testimony given before the Senate Antitrust Subcommittee on the "Balance of Payments" bill and quotes the President's message, the statements of Under Secretary of Treasury Joseph W. Barr, and Deputy Attorney General Ramsey Clark. It would be pertinent to repeat Mr. Clark's statement:

"It was recognized by the President that, in the case of the financial community, something more than individual action might ultimately be necessary. Because of the factor of joint participation in large foreign loans, caution dictated the availability of authorization, on a standby basis in case of need, for a voluntary program of joint discussion and joint action by financial institutions to insure that the President's objectives will be carried out. Since such a program could have antitrust implications, the need for the antitrust exemption embodied in this bill is evident."

Deputy Attorney General Clark is also quoted in the report on the Fair Packaging Bill, S. 985, where he said:

"Since standardization could, in some instances, be an anticompetitive factor, the provisions appropriately confer a discretionary authority which, in its exercise, may take into account the impact of any such regulation on competition."

These authorities make my point: voluntary programs can have antitrust implications, standardization can be an anticompetitive factor. The committee charged with responsibility in this area—the Judiciary Committee through its Antitrust Subcommittee—should be allowed to examine these possibilities.

It was agreed in the arguments on February 18, 1965 on referral of S. 985 that if anticompetitive issues arose, the bill would be referred from the Commerce Committee to the Senate Antitrust Subcommittee for study of the antitrust implications. Mr. Clark's statement demonstrates that this condition precedent has occurred.

I quote Senator HART on this point from the CONGRESSIONAL RECORD, February 19, 1965, Page 3153:

"The worst that could be said for the precedent, I suggest, is that proposed packaging and labeling legislation, which everyone agrees should go to the Committee on Commerce, should also be referred to some other committee afterwards because it may have some secondary implications."

And earlier on February 4, 1965, when he introduced S. 985 he said:

"It is conceivable that the Commerce Committee in its analysis of the bill and in its determination, would report a bill which should go to one or more of the antitrust laws. In that case, clearly it should go back to the Judiciary Committee." (Emphasis mine.)

I say that this is the case, and the bill clearly should go back to the Judiciary Committee and its Antitrust Subcommittee.

Some of us, who have lived with the Packaging and Labeling Bill since 1961, are aware of the bill's many antitrust aspects. The fact that S. 387, which was subject to hearings by the Senate Antitrust Subcommittee, was changed slightly in the drafting of S. 985 to the extent that its sponsors now refrain from calling it an antitrust bill and have ceased to urge it as an amendment to the Clayton Act, does not alter the conclusion that the bill still is essentially an antitrust measure.

Only by a close analysis of the contents of the proposed legislation can we determine what type of a measure it is and what committee or committees should have jurisdiction of it under our Rules and the precedents of the Senate.

In February, 1965, an extensive debate occurred in this body, with some Senators urging jurisdiction for the Senate Judiciary Committee and others urging jurisdiction for the Senate Commerce Committee. This debate occurred when the bill was just introduced and the Senators on the Commerce Committee were striving to uphold the prerogatives of their Committee and the Senators on the Judiciary Committee fought to uphold the prerogatives of the Senate Judiciary Committee. I might add that it was a bipartisan approach.

However, today the issue is different. The rules provide that more than one committee can claim jurisdiction. The Senate Commerce Committee has completed its action on the bill. Now the sole issue is whether the Senate Judiciary Committee and its Antitrust Subcommittee should have the right and the privilege, provided by the Senate Rules, to claim its jurisdiction over the Packaging Bill and take such action as deemed necessary and proper.

The arguments made by the members of the Senate Commerce Committee in February, 1965, that the Senate Commerce Committee was the proper committee, is no longer applicable because that issue has been settled. We reiterate that Senator HART's statements on February 19, 1965, demonstrate persuasively that the Judiciary Committee should now have jurisdiction.

"The worst that could be said for the precedent, I suggest, is that proposed packaging and labeling legislation, which everyone agrees should go to the Committee on Commerce, should also be referred to some other committee afterwards because it may have some secondary implications."

If Senator HART now states that S. 985, with its many antitrust aspects, does not have primary or secondary implications to refer it to another committee, then I say that Senator HART is precluding antitrust jurisdiction over a number of subject matters that he, as Chairman of the Antitrust Subcommittee, has urged for his Subcommittee. This includes primary jurisdiction for new matter and secondary jurisdiction for bills previously acted upon by other Senate committees or subcommittees.

How can my Antitrust Subcommittee Chairman contend that there is no secondary antitrust implications in S. 985 when the entire premise of the bill has been said to be based on a theory of nonprice competition? Senator HART, in introducing the original Packaging and Labeling Bill said:

"What does this bill do? It is an effort to bring up to date the antitrust laws by recognizing the emergence of a relatively new

form of nonprice competition—packaging and labeling.”

Senator HART, his staff and several proponents of S. 387 and S. 985 asserted that this nonprice competition is at the heart of the Packaging and Labeling Bill and further, that this gives it antitrust aspects.

In this regard, it is illuminating to examine the testimony of Dr. Irston Barnes, Columbia University professor and formerly of the staff of the Antitrust Division, Department of Justice and the Federal Trade Commission. Dr. Barnes, who appeared at the invitation of Senator Hart to discuss S. 387, defined nonprice competition in his testimony as follows:

“Packaging is an important aspect of product differentiation and of nonprice competition. Packaging is essentially an extension of the advertising and promotional campaign by which the manufacturer secures for his product a place on the shelves of the supermarket. Packaging affords an opportunity for the manufacturer to reinforce the product image which he has sought to create by his advertising. While packaging is necessary to contain the product, to protect its contents, and to implement the self-service character of the supermarket, the package is also, from the point of view of the manufacturer, his ‘salesman’ at the point of sale. His extensive expenditures for advertising and promotion will result in little benefit to him unless his product is so packaged that the consumer can readily identify it, preferably without being previously diverted to examine the offerings of his rivals. The manufacturer is thus necessarily alert to any opportunity to use packaging in such a way as to create a differential advantage for his product, and in seeking this differential advantage, he may engage in practices which lose sight of the requirements of the buyer seeking to make a rational choice among the multitude of competing products.

“... If we seek to preserve a competitive economy, we must be prepared to have business rivals act as competitors. We must expect that they will compete with any means which are legitimate in terms of the mores of the market. Such competition can produce unwanted results, as it has in the form of false and misleading advertising and unfair methods of competition. It is not surprising that packaging has developed some dubious practices; indeed, it is surprising that there have not been more instances of deceptive packaging. A recognition of the origins and inherent nature of the problem, as developed in the hearings of the subcommittee, lays a firm foundation for corrective action.”

“Packaging is an important aspect . . . of nonprice competition.” “Standardization could . . . be an anticompetitive factor.” “. . . New form of nonprice competition—packaging and labeling.” Now this is what the proponents have said. This is what we have been told. It does not matter whether you agree with this theory or not. Quite simply it boils down to this: Antitrust issues have been raised in connection with this legislation. “In that case, clearly it should go back to the Judiciary Committee.” The last sentence was Senator HART speaking on February 4, 1965 when he objected to Senator DIRKSEN’s unanimous consent that S. 985 be referred to the Judiciary Committee.

Yet we are once again faced with the argument that since commerce is involved, the Commerce Committee has exclusive jurisdiction.

If the argument used to sustain the initial reference to the Commerce Committee were to be further applied so as to deny jurisdiction to the Judiciary Committee, the Antitrust and Monopoly Subcommittee would have no jurisdiction whatsoever. To contend that because legislation involves commerce, the Commerce Committee should have jurisdiction to the exclusion of all other commit-

tees is a startling position. If this be the applicable principle under the precedents, the Antitrust Subcommittee has no function, for everything it handles deals with goods in commerce.

Throughout the years, the subcommittee has held extensive hearings on almost everything that moves in the stream of interstate commerce: steel, automobiles, bread, drugs, hearing aids, roofing materials, insurance and library books. This is only a partial list. But it proves the point. These subjects are inextricably connected with commerce.

Perhaps this reasoning which is advanced by some Senators should carry the day. Perhaps it might be wise to leave the Antitrust Subcommittee with nothing to do. Our budget is substantial. The federal government’s demand for money is insatiable. Perhaps the appropriation for this subcommittee, an appropriation which amounts to half a million dollars, could be given a home elsewhere. The Committee on Commerce might make use of it in handling these subjects.

Like the packaging bills introduced in the 87th and 88th Congress, and like S. 985 itself as introduced in the 89th, the present bill is replete with antitrust ramifications and implications. Basically, the purposes of all these bills are the same. But whereas the earlier measures were considered, without objection or question, by the Antitrust Subcommittee, we are now told something is different. But there is still the granting of power to the Secretary of Health, Education, and Welfare and the Federal Trade Commission to promulgate regulations relating to certain policies which relate to price. There is still promulgating power in the hands of a federal agency concerning regulations governing packages.

We have noted testimony stressing that packaging practices are a form of competition. Who is to investigate and measure these statements that competition could be affected by this bill? And what about the effect of packaging regulations not on the maker of the packaged product but on the packaging industry itself? What is the effect of the bill on competition in that aspect of our economy? Whose duty is it to ascertain such effect? Is it the Commerce Committee or the Antitrust Subcommittee of Judiciary?

The Commerce Committee has performed its function. The Antitrust Subcommittee has not and it is sound legislative policy that it be given the opportunity to examine the antitrust issues that remain. It is my submission that these antitrust aspects are of primary significance.

The issue, of course, is whether the bill has been cleansed of its antitrust implications. This can be determined only by examining the substantive provisions in the measure. “The sponsors may call their bill anything they like, hang on it any label they please. However, this body is not interested in how a bill is described or where the codifiers may station it. This body is concerned with substance and what a bill will do if enacted.” I said the foregoing on February 19 of last year and suggest that it is equally applicable today.

It strikes me as significant that much of what was said during the February debate on the original reference to Commerce, retains its relevance today. I quote further from a portion of my statement then:

“The referral of the packaging bill involves serious practical considerations. The Antitrust Subcommittee has labored nearly 4 years with this legislation. It literally has heard thousands of words of testimony. It has listened to carefully prepared and well reasoned arguments of experts from both business and Government. It has gained a knowledge of the contents and mechanics of the packaging bill that no one else in the Senate shares. It has considered the bill many times in executive session and painstakingly prepared a report which presents in

detail the several points of view regarding the merits of this bill.

“Now the proponents of S. 985 ask the Senate to proceed de novo. They ask this body to strike off in an entirely new direction and to ignore and disregard all the expertise and experience that has been acquired. In short, they ask the Senate to be a party to a waste of knowledge, experience, time, energy, dedication, and diligence.

“It is contended that since the packaging bill relates to ‘goods in interstate commerce,’ the Commerce Committee logically has exclusive jurisdiction. Certainly that committee has a vital interest in many subjects involving commerce. However, I doubt that any of its members would seriously contend that the mere mention of the word commerce in a bill automatically vests their committee with plenary jurisdiction. Were this the case, the Antitrust Subcommittee would become a useless and unneeded arm of the Senate.

“Virtually all legislation coming before the Antitrust Subcommittee involves commerce in one way or another. In the past, this subcommittee has probed into many areas of the economy.

“This is not to imply that the Commerce Committee is totally without jurisdiction in these areas. The point is that the phrase ‘interstate commerce’ is not a magical expression. Indeed, standing alone, it is meaningless. A wise judgment regarding jurisdiction simply cannot be made without a precise understanding of the contents of a bill; how those contents will be put into action and by whom.

“As I have said, the language and history of S. 985 clearly reveal it to be an antitrust measure. The proponents already have acknowledged their bill is loaded with antitrust implications. Their view is shared by others, many of whom are antitrust experts.

“In a speech last December, Mr. Joseph Sheehy, Director of the Bureau of Restraint of Trade of the Federal Trade Commission made this pertinent comment regarding the relationship between product standardization as called for in the packaging bill, and the antitrust laws. He said that standardization of products by industry might ‘fit into a trade restraining pattern that brings it within the ambit of the law.’ In other words, the packaging bill would compel producers to adopt patterns of business that presently are probably outlawed by the antitrust statutes. Can anyone deny that a bill that actually requires conduct violative of the antitrust laws, is not pregnant with antitrust considerations and implications.

“Certainly, this body does not want to be a party to any act, such as denying the Judiciary Committee jurisdiction over this bill, that is grounded upon such specious and twisted and ironical reasoning that is the essence of the proponents’ case.

“In sum, the jurisdictional claim of the Judiciary Committee in this matter is well founded. It rests upon sound logic and reason. It is supported by ample precedent.

“By any name, the bill at hand is an antitrust measure. It is the product of antitrust thinking by antitrust experts. It requires antitrust enforcement.

“The position that has been taken by the proponents of the packaging bill in seeking to deny the Judiciary Committee jurisdiction puts them at war with all their previous words and actions in this matter.

“As recently as January 15, Chairman HART of the Antitrust Subcommittee in his letter to Chairman EASTLAND of the Judiciary Committee justifying his appropriations request for the coming year said:

“‘The subcommittee plans to continue to examine, investigate, and make a complete study of the nature and extent of trade and commercial practices affecting the consumers in a manner which tends or may tend to restrain competition in interstate commerce

and fraudulent, or unfair practices in the production, processing, packaging, labeling, branding, advertising, statement of prices, and other conditions of sale, marketing and furnishing goods and services to consumers."

"If the chairman of the subcommittee is sincere in his plans to conduct these inquiries, he has placed himself in the curious position of claiming jurisdiction over packaging and labeling in one instance and denying it in another. Now is the time to determine which line of thinking is to prevail. Certainly, if the chairman of the subcommittee stands ready to quitclaim all right to matters involving commerce that fact should be known. If the Antitrust Subcommittee is getting out of the business of matters affecting the Nation's commerce, its budget demands certainly will be diminished."

"Mr. President, I urge that the Judiciary Committee not be denied its rightful claim of jurisdiction in the matter at hand."

There is a quite recent and very valuable study which strongly suggests that the role packaging plays in the competitive market place is very important. This impartial statistical survey was conducted by Arthur D. Little, Inc. and titled "The Role of Packaging in the U.S. Economy." It was prepared for the American Foundation for Management Research, a nonprofit affiliate of the American Management Association.

I ask unanimous consent to quote certain parts of this report. It is relevant to the voluntary product standards of section 5 of S. 985. The aim of the report was to present the importance of packaging in the U.S. economy. It states the following about packaging material sales volume:

"According to estimates by the Department of Commerce and the Bureau of the Census, the total volume of packaging materials shipped in 1963 amounted to \$13.2 billion up 53 percent from the \$8.7 billion estimated for 1954 and 23 percent over the \$10.8 billion estimated for 1958 (see Table 2). The government figures reportedly included the operations of forty different 'industries' engaged in the manufacture of containers and packaging."

"Over the years, the relative market share for different types of packaging materials as reported in the government statistics has shifted only slightly; the primary change has been in the decline in importance of textile and wood containers in favor of plastics. The distribution of the Department of Commerce sales estimates is as follows:

[In percent]			
Item	1954	1958	1963
Metal.....	25.2	25.4	24.4
Glass.....	7.3	7.8	7.4
Plastic.....	2.7	3.7	5.8
Paper and paperboard.....	51.4	52.3	52.3
Wood, textiles, and miscellaneous.....	13.4	10.8	10.1
Total.....	100.0	100.0	100.0

The slow change in relative market share is undoubtedly attributable to two factors: 1) the heavy dependence of packaging on food products, for which innovations in basic package forms are generally slow to be accepted, and 2) the very broad use of paper and paperboard packaging materials throughout all sectors of the economy. Thus, while intense competition between packaging materials has led to a steady series of package innovations, the relative importance of the three primary packaging materials (metal, paper and glass) has actually changed very little during the period from 1954 through 1963.

The effect of the present legislation on such a large and competitive industry should be considered. In a chapter entitled "Packaging and the Economy," it is reported: "Packaging directly affects economic

growth in the following way: basically, a cost saving to the consumer from packaging increases his real disposable income and this additional income can then either be spent on other goods, services, and leisure, or saved. Indirectly, where packaging makes possible new products, or improvements in existing products, there is an increase in corporate investment which in turn creates further economic growth. As management becomes increasingly aware of how to incorporate packaging into the total corporate strategy, the impact of packaging on economic growth will be even greater than it has been."

"The highly competitive market for packaged consumer products has focused continued attention on the need for new products. Packaging is an inexpensive and easily distinguished way to achieve product differentiation. Therefore, packaging is one of the areas of competition and one of the tools used to secure entry of new firms or products. Packaging thus contributes to increased competitive vigor. These competitive pressures have given rise to many processing-packaging innovations that have reduced the costs of production, distribution and retailing, and, in the long run, have resulted in substantial savings to the consumer. The development of self-service merchandising has also made packaging a key factor in the corporate marketing program. Every package on the shelf must now compete, either directly or indirectly, with every other package. Very little help is provided by the store; the best that a manufacturer can hope for is that his product will be accorded a favorable shelf position. Therefore, the package is now the primary salesman at the point of purchase. One must pay for a salesman's services; so the manufacturer must pay for the merchandising capabilities of the package. Yet the cost to both the manufacturer and the consumer is justified if it brings with it the economies of mass production, distribution and communication."

"Packaging works to stimulate economic growth on both the demand and supply side of the growth equation:

"1) *On the demand side*, packaging provides a means for product differentiation, which, in turn, reduces the risk of market entry and enhances the sales effort with new products. In addition, packaging is a primary advertising media and as such acts to intensify the promotional efforts at the point of purchase and at the time of use. This in turn stimulates future demand for the same product."

"2) *On the supply side*, packaging reduces costs, and thus improves return on investment and enhances the environment for new investment. To the extent that these savings are reflected in lower retail prices, packaging is reducing the consumer's out-of-pocket costs, and thus allowing for shifts in spending patterns, which in turn lays the groundwork for new investment."

In a chapter called "Packaging and the Corporation," the point is made that "while there are many possible ways to define corporate success, from the standpoint of economic growth, it can best be defined as the developing and maintaining of a competitive edge." It is the examination and study of the methods utilized in obtaining such an "edge" that is the concern of the Antitrust Subcommittee, at least so we are told. I quote further from this chapter in response to any suggestion that voluntary procedures relating to packaging standardization may not have anticompetitive effects:

"In seeking out or defending a competitive advantage, a company has within its control only three strategic market variables—price, product, and promotion—subject to a wide range of possible combinations. Packaging is unique in that it is intimately associated with each of these strategic variables."

"Price—Packaging is an element in price

because it is a key cost factor as well as a mechanism for offering the consumer a range of prices based on different package sizes. As an element of cost, packaging provides a product variable which can increase or reduce the final cost per unit of the item to the manufacturer. As a cost, its variance will affect the price of the product either through marginal cost pricing, target-rate-of-return pricing, or markup pricing."

"Product—Packaging is also an element of the product and therefore can functionally enhance the item or improve its subjective appeal. For example, it can provide convenience in use, improved quality maintenance, and/or esthetic appeal. The extent to which this is accomplished will affect the value of the product to the consumer."

"Promotion—Finally, the package is a key element in promotion. Packaging expenditures are not usually regarded as part of the promotional budget, but a package which does not effectively carry the manufacturer's message to the point of purchase and into the home is a waste of money and considerably reduces the impact of advertising and other promotional activities."

This is a very detailed and interesting report. It finds that packaging has a long-term beneficial effect on this country's general economic health in that it reduces production and marketing costs, increases consumer demand for products and accelerates the rate of market entry and penetration. Any legislation which effects packaging must be examined for anticompetitive implications. The proponents of S. 985 have themselves raised these questions. The Antitrust Subcommittee has been charged with the responsibility of assessing such implications.

I repeat what was earlier said: The Commerce Committee has performed its function. The Judiciary Committee should now be told to do its job.

But the obvious fact that S. 985 has raised the question of possible anticompetitive effects on the packing industry is only a part of the reason the measure should be examined by the Antitrust Subcommittee.

Provisions of S. 985 also appear to create potentially serious antitrust risks for industry members seeking to comply with the proposed legislation. This I mentioned in a general way earlier. Its exploration in detail persuasively demonstrates that substantial issues under the antitrust laws are raised in this regard.

If the promulgating authority determines "that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall— . . . (2) promulgate . . . regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity shall be distributed for retail sale." § 5(d).

"[Any producer or distributor affected by the above provision] may request the Secretary of Commerce to participate in the development of a voluntary product standard for such commodity under the procedures for the development of voluntary product standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901." No regulation as to weights or quantities may vary from any voluntary product standard. § 5(e), (f).

"Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—the Federal Trade Commission Act or any statute defined therein as an antitrust Act." § 11.

These provisions, when considered together, may raise serious questions of potential antitrust liability for those who participate in the development of voluntary product standards, as shall be shown below.

As a matter of sound legislative procedure, therefore, S. 985 should be considered by the Senate Judiciary Committee and the Antitrust and Monopoly Subcommittee.

As recognized by numerous antitrust decisions, a voluntary standard would bring about an industrywide standardization of products which could facilitate price uniformity and price matching supporting an inference of price collusion or price conspiracy in violation of the antitrust laws.

Accordingly, if the voluntary standardization aspects of S. 985 are desirable, the bill should contain a specific antitrust exemption covering industry members' participation in the development of voluntary product standards.

At the very least, the Committee with experience and jurisdiction in these matters, the Judiciary Committee, should evaluate the need for such an antitrust exemption, and formulate the text of an appropriate exemption.

Significantly, the Justice Department, in its comments on S. 985, has correctly recognized that "standardization could, in some instances, be an anticompetitive factor." Letter of Deputy Attorney General Ramsey Clark, reprinted at S. Rep. No. 1186, 89th Cong., 2d Sess., p. 11 (1966).

This express recognition by the Justice Department matched with the clear language of § 11 that the bill does not "repeal, invalidate, or supersede . . . any . . . antitrust Act," clearly demonstrates that this bill should now have its antitrust implications reviewed and evaluated by the Judiciary Committee.

There are several reported antitrust cases which hold that product standardization programs by industry groups become vulnerable under the antitrust laws as an element of a conspiracy to restrain trade:

In *Milk and Ice Cream Can Institute v. FTC*, 152 F. 2d 478, 482 (7th Cir. 1946) it was held that a product standardization program was part of an antitrust conspiracy to restrain trade, held to be in violation of the Federal Trade Commission Act. As the Court noted:

"Much is said by petitioners concerning their claim that milk and ice cream cans are a standardized product. From this it is argued that uniformity of price was a natural rather than an artificial result. An argument of this kind has some merit as to certain products, such as sugar, salt, oil, etc., where the product from its nature is standard. We doubt, however, if there is any merit in the contention that a can is in such a category. We think it is true that they were standardized in the instant situation, but this was the result of the activities of the Institute and its members. In fact, there was a continuing effort and urging on their part that the cans be manufactured in uniform classifications. It may be, as argued, that much of this effort was to comply with various governmental regulations and for health purposes, but the fact still remains that it was easier to reach the goal of uniform prices on a standard product than on one which was not. The meticulous effort disclosed by the record by which petitioners standardized their products is also a strong circumstance in support of the Commission's finding that their activities were the result of an agreement." 152 F. 2d at 482 (emphasis supplied).

Similarly in *C-O-Two Fire Equipment Co. v. United States*, 197 F. 2d 489 (9th Cir.), cert. denied, 344 U.S. 892 (1952), the court found a price fixing conspiracy for fire extinguishers, violating Section 1 of the Sherman Act, involving the element of product standardization.

The Court of Appeals declared:

"The standardization of products among the four defendant corporations named in the indictment is pointed to by [the Department of Justice] as another plus factor in the

chain of circumstances that points to the conspiracy alleged.

"It is the contention of [defendants] that this standardization and substantial identity of product serves to explain the admitted price uniformity in the industry during the pertinent period. We think, however, that such standardization of a product that is not naturally standardized facilitates the maintenance of price uniformity.

"The [defendants] seek to rebut such conclusion and any inference of combined action that may arise therefrom with the testimony of their witness, Allen, that 'we are required to meet standards set up by the Underwriters Laboratories in this respect, that we are required to put out certain sizes in order to obtain certain ratings. . . .' This evidence may well explain the artificial standardization in regard to size. But we can well understand why the trial judge was unable to accept Mr. Allen's testimony as a satisfactory explanation for the similarity in color and other physical characteristics among the extinguishers manufactured by the different corporate defendants. [Defendants] make no effort to explain why these products, although manufactured by different companies, and formed of components manufactured by different companies, were indistinguishable save for their respective labels." 197 F. 2d at 493.

Again, in *Bond Crown and Cork Co. v. FTC*, 176 F. 2d 974, 977 (4th Cir. 1949), an FTC finding of a conspiracy in restraint of trade by manufacturers of bottle caps was affirmed, including supporting evidence of a product standardization program.

Thus, the Court declared:

"In the opinion of the Commission, there is a direct connection between this understanding and the admitted efforts of the respondents to standardize their products to such an extent that a prospective purchaser would have no choice in the realm of coloring, lettering, and decorations as between the products of any two manufacturers." 176 F. 2d at 977.

Product standardization programs were also found to constitute elements of illegal price fixing conspiracies in restraint of trade in *Association of Coupon Book Manufacturers*, 45 F.T.C. 219 (1948) (trade association setting of uniform prices and standardized products for tickets, checks, and coupons), and *Electrical Alloy Section of National Electrical Manufacturers Association*, 36 F.T.C. 336 (1946) (trade association fixed uniform prices and standardized products for electrical alloy resistance wire).

In light of these cases, any procedure which involves industry-wide efforts by firms aimed at product standardization inevitably faces potentially serious antitrust risks unless it is specially exempted from the antitrust laws.

This is not to say that every product standardization effort will be condemned as an antitrust violation. Rather, the point is that such industry-wide standardization efforts create a degree of antitrust risk to which business firms seeking to comply with one aspect of S. 985 should not be gratuitously exposed.

In sum, if S. 985 is considered by the Judiciary Committee, that body's long experience with the problems of antitrust would enable it to evaluate the nature of the antitrust problems inhering in the bill, and to draft whatever provisions are necessary to deal with the situation fairly.

Such a proper consideration of the antitrust dangers inhering in the Packaging Bill is no less essential for the affected industry members in this industry than for the members of the banking industry who received a special antitrust exemption for assisting in the President's international balance of payments program.

When President Johnson, on February 10, 1965, proposed a program calling for mem-

bers of the banking community voluntarily to limit their lending abroad, he commented:

"Cooperation among competing banking interests could raise problems under the antitrust laws and, if extended beyond measures essential to our balance-of-payments objectives, would damage our competitive system.

"Therefore, I request the Congress to grant a statutory exemption from the antitrust laws to make possible the cooperation of American banks in support of our balance-of-payments objectives. I request also that the legislation require that the exemption be administered in ways which will not violate the principles of free competition." 1965 U.S. Code Cong. & Ad News, 3062.

As a result the Congress passed public law 89-175, September 9, 1965, which now expressly provides:

"When the President finds it necessary and appropriate to safeguard the United States balance of payments position, he may request persons described in section 1 to discuss the formulation of voluntary agreements or programs to achieve such objective. When such a request is made, a notice shall be promptly published by the President in the Federal Register, listing the persons invited to attend and the time and place at which the discussion is to be held. If the President makes such a request, no such discussion nor the formulation of any voluntary agreement or program in the course of such discussion shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States." § 2(b).

This statute also provides procedural safeguards whereby meetings are presided over by a government official and a verbatim transcript is kept.

Thus, in the case of the banking industry, where government asked for industry participation in connection with the balance of payments problem, it was thought necessary to have an antitrust exemption for the activity.

S. 985, in an important part of its regulatory scheme, also contemplates industry participation in the development of voluntary product standards.

However, S. 985 establishes no antitrust safeguards, and expressly provides that nothing in the Act is to supersede or avoid the application of the antitrust laws.

It is clear that this raises substantial issues under the antitrust laws.

For that reason the Senate should not act on this bill until the Judiciary Committee has had an opportunity to consider its antitrust implications.

Mr. DIRKSEN. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. DIRKSEN. Mr. President, supplementing what has been stated by the distinguished Senator from Nebraska the Senator from Michigan when the first packaging bill was introduced, number S. 387, asked the question:

What does this bill attempt to do? It is an attempt to bring up to date the antitrust laws by recognizing the importance of a new form of nonpriced competition packaging and labeling.

That is the milk in the coconut, so to speak. We tried to make that clear.

We have not for a moment contested the jurisdiction of the Committee on Commerce, for when they brought this in as an amendment to the Clayton Act, we recognized that they had jurisdiction. We do not for a moment deny that there is a Bureau of Standards and that that

bureau can set standards. However, that is not the issue.

The issue is nonprice competition, and that is what we are receiving here. It is clear, as the distinguished Senator from Michigan said, that the measure is in the tradition of the antitrust laws.

He stated:

This bill would bring the antitrust laws up to date insofar as the nonpriced form of competition represented by packaging and the labeling is concerned.

So, we rest our case there.

Mr. President, I believe that the yeas and nays have been ordered, and I suggest the absence of a quorum.

Mr. HART. Mr. President, will the minority leader withdraw his suggestion of the absence of a quorum?

Mr. DIRKSEN. Mr. President, I withdraw my suggestion of the absence of a quorum.

Mr. MAGNUSON. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. HART. Mr. President, I think the essential facts on which an objective jurisdictional decision should be based in any piece of legislation are rather clear.

Before suggesting these facts, I remind the Senate that investigations and hearings are often held under jurisdiction covering a broad, general area. However, clear responsibility for legislative action very often lies with other committees.

What are the two factors that ought to determine jurisdiction in the debate on any pending piece of legislation?

First, what is the impact of the legislation on other legislation? Does this amend the antitrust laws? That is the specific question to be applied here. This bill as now written neither amends nor affects any antitrust legislation now on the books.

Second, what are the dominant features of the bill? The dominant features involve the packaging and labeling practices of consumer goods in an area in which the Committee on Commerce has traditionally legislated.

The bill is a packaging and labeling bill and is clearly a subject matter for commerce, unless we want to suggest, as we could do, that virtually every piece of legislation that affects business activities has some anticompetitive implication. I suppose that perhaps the Mann Act inhibits the freedom of hotel operation. Yet no one would seriously label that act an antitrust measure.

Yet this bill has less antitrust implication.

It is true that hearings have been held in the Antitrust Subcommittee due to the fact that an earlier bill, S. 387 in the 88th Congress, sought to amend the antitrust laws.

I had drafted that earlier bill as an amendment to the Clayton Act. Senator DIRKSEN argued convincingly that the bill was entirely unrelated to the Clayton Act and many witnesses at the early hearings supported his view.

Senator DIRKSEN has won his point. He and other witnesses were convincing that the truth-in-packaging bill was, indeed, inappropriate as an amendment to an antitrust law. He won another point, the bill was considered by the Commerce Committee where he argued that it belonged.

This legislation has been fully considered by the Commerce Committee. It is now appropriate to have it voted on.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. MAGNUSON. Mr. President, I yield five minutes to the Senator from Ohio.

Senator from Ohio is recognized for 5 minutes.

Mr. LAUSCHE. Mr. President, I contemplate voting for the motion of the Senator from Illinois because I think this issue ought to be decided here today. I do, however, want to utter a few words respecting this object of honest labeling.

I think a closer study of the measure before us would demand the conclusion that there is some question about the honest labeling of the bill that we are presently considering. A close study will, in my judgment, disclose that the bill before us in some degree mislabeled. I believe that two phases of the bill should be considered. These phases pertain to the housewife who goes to a merchandiser and buys articles.

The first is the prohibition of fraud.

The second is the labeling of merchandise so that the housewife will have a reasonable ability—without confusion—to interpret what the package contains.

With regard to the first item, I submit to my colleagues that we now have ample laws on the statute books of the United States to protect against the perpetration of fraud.

I have spoken on this subject heretofore on the Senate floor. There were very few Senators present when I spoke before. There are more Senators present now.

The Federal Food, Drug, and Cosmetic Act contains this language:

A food shall be deemed to be misbranded (a) if its labeling is false or misleading in any particular. It shall be deemed false or misleading if its container is so made, so formed, or so filled as to be misleading.

The essence of the arguments which we have made on the floor in the last 2 days has dealt with the subject of containers.

The Cotton amendment contemplated eliminating from the bill the language dealing with the size of containers, and, though he did not emphatically argue it, he did indicate that the present law is adequate.

To those in the gallery especially, I want to repeat what that part of the law provides. It shall be a fraud by a merchant to sell goods in a container so made, so formed, or so filled as to be misleading.

What clearer language do we require? Ponder about it. I do not believe, if we search our minds, that in all honesty we can say this language is not sufficiently clear.

In connection with the Federal Food, Drug, and Cosmetic Act, a further provision deals with the adoption of regulations. That provision reads as follows:

Whenever in the judgment of the Secretary such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food under its common or usual name, so far as practicable, a reasonable definition of a standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container.

The statute dealing with regulations gives the Secretary, under the Federal Food, Drug, and Cosmetic Act, authority to adopt regulations fixing containers. I submit to my fellow Senators that from the standpoint of protecting the housewife against fraud, the existing law is ample.

The PRESIDING OFFICER (Mr. BURDICK in the chair). The time of the Senator has expired.

Mr. MAGNUSON. I yield 5 additional minutes to the Senator from Ohio.

Mr. LAUSCHE. The law provides that a merchant who misbrands falsely his product shall be subject to criminal prosecution, and subject to an action in equity for the imposition of a restraining order prohibiting the future sale of goods under the fraudulent practice.

We now come to the second phase of the argument, and that is the need of protecting the housewife against confused but honest labeling. That is where you have a label on the package and in big, block, conspicuous type it has a lot of puffing, but in small type it states the ounces contained in the package, and the housewife is forced to look all over the package, trying to find out how many pieces it contains or what the liquid or solid ounce content of the package is, and she has difficulty.

On this latter aspect of the bill, I completely concur with the Senator from Michigan [Mr. HART], the Senator from Washington [Mr. MAGNUSON], and the other proponents of the measure. I think labels should be prominently displayed on the container that will enable the purchaser clearly and quickly to identify the quantity of its contents.

So from my standpoint, the first problem is: Do we need a new department to protect the consumer against fraud? I believe the answer is "no." The answer is "no" because, in the creation of a new department, there would be hired new administrators, new clerks, new stenographers, new secretaries and new lawyers. There is adequate implementation in the Government now to perform that function, if there is an honest wish to perform it.

With reference to the second phase of the discussion, I believe this law is sound. I believe it should be adopted. That being the case, I have this decision to make: Are the positive and proper aspects of the law of sufficient weight to overpower the weak aspects of it? My answer is that they are. Therefore, I shall vote for the measure.

I shall vote against the submission of this measure to the Committee on the Judiciary, because I believe we have spent ample time on it. It has been fully dis-

cussed pro and con, and the bill, as submitted, represents the composite judgment of how many committee members? Fifteen?

Mr. MAGNUSON. Eighteen.

Mr. LAUSCHE. Of 18 members of the committee.

I commend the Senator from Michigan [Mr. HART], who, with his serene, subdued approach, has moved the bill through the committee, with the aid of the Senator from Washington [Mr. MAGNUSON], who, in a humorous way, manages to keep everybody in a good state of mind.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. DIRKSEN. I do not believe there are any other demands for time; therefore, I yield back the remainder of my time, subject to a short quorum call, to alert the Senators. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CLARK in the chair). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time having been yielded back, the question is on referring the subject matter of the bill to the Committee on the Judiciary. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New Mexico [Mr. MONTOYA], and the Senator from Maryland [Mr. TYDINGS] are absent on official business.

I also announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from New York [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Idaho [Mr. CHURCH], the Senator from Louisiana [Mr. ELLENDER], the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Rhode Island [Mr. PELL], and the Senator from Maryland [Mr. TYDINGS] would each vote "nay."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], Senator from Kansas [Mr. CARLSON], the Senator from New Jersey [Mr. CASE], and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from Hawaii [Mr. FONG], the Senator from California [Mr. KUCHEL] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Idaho [Mr. JORDAN] is absent on official committee business.

On this vote, the Senator from Idaho [Mr. JORDAN] is paired with the Senator from New Jersey [Mr. CASE]. If present

and voting, the Senator from Idaho would vote "yea" and the Senator from New Jersey would vote "nay."

On this vote, the Senator from Texas [Mr. TOWER] is paired with the Senator from Hawaii [Mr. FONG]. If present and voting, the Senator from Texas would vote "yea" and the Senator from Hawaii would vote "nay."

The result was announced—yeas 19, nays 64, as follows:

[No. 93 Leg.]

YEAS—19

Bennett	Hruska	Saltonstall
Cotton	Miller	Scott
Curtis	Morton	Simpson
Dirksen	Mundt	Williams, Del.
Eastland	Murphy	Young, N. Dak.
Fannin	Pearson	
Hickenlooper	Russell, Ga.	

NAYS—64

Aiken	Hart	Morse
Anderson	Hartke	Moss
Bartlett	Hill	Muskie
Bass	Holland	Nelson
Bayh	Inouye	Neuberger
Bible	Jackson	Pastore
Boggs	Javits	Proxmire
Brewster	Jordan, N.C.	Randolph
Burdick	Kennedy, Mass.	Ribicoff
Byrd, Va.	Lausche	Robertson
Byrd, W. Va.	Long, Mo.	Smathers
Cannon	Long, La.	Smith
Clark	Magnuson	Sparkman
Cooper	Mansfield	Stennis
Dodd	McCarthy	Symington
Dominick	McClellan	Talmadge
Douglas	McGee	Thurmond
Ervin	McGovern	Williams, N.J.
Fulbright	McIntyre	Yarborough
Gore	Metcalf	Young, Ohio
Griffin	Mondale	
Harris	Monroney	

NOT VOTING—17

Allott	Gruening	Pell
Carlson	Hayden	Prouty
Case	Jordan, Idaho	Russell, S.C.
Church	Kennedy, N.Y.	Tower
Ellender	Kuchel	Tydings
Fong	Montoya	

So Mr. DIRKSEN's motion was rejected.

Mr. MAGNUSON. Mr. President, the Senator from Wisconsin [Mr. NELSON] has a question he wishes to ask concerning one of the provisions in the bill. For the benefit of all Senators present, let me say that so far as I know, that is all we will have before a yea-and-nay vote on final passage in just about 4 or 5 minutes from now.

The PRESIDING OFFICER. The Chair inquires of the Senator from Washington who yields time to the Senator from Wisconsin?

Mr. MAGNUSON. I yield such time on the bill as the Senator from Wisconsin desires.

Mr. NELSON. I should like to ask the Senator from Washington as to section 4(a), subsection (b), which reads as follows:

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act and which shall provide that:

I skip to 2(b), as follows:

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

Glass bottles used to contain milk are made from a mold using the specifying "pint," and so forth. Some States, I un-

derstand, have required some other labeling method or some other way of interpretation.

My question is: Would the definition supplied here permit glass bottles containing milk to be molded, identifying the quantity in the same fashion it has always been? This has been the recognized method for a good many years, and there are literally millions of glass bottles in current supply. If this provision did not contemplate using this method it would require the manufacture of new molds, and so forth, would it not?

Mr. MAGNUSON. The committee was conscious of that fact. Let me say for the record, first, that all returnable and reusable containers—which means bottles or anything of that kind—are "grandfathered" by the bill. They would not be affected. The words "embossing and molding" added to section 4(a), 3(b), to make it clear that the contrast can be made by embossing and molding, as well as by other methods, such as coloring. We added the words "embossing and molding" deliberately.

Mr. NELSON. For that specific purpose?

Mr. MAGNUSON. Yes. Therefore, for the record, there is no intention by the sponsors to require any change in the method by which bottles of milk have traditionally been marked. There is nothing in the printed bill which would require any necessity or authorize any change here.

Mr. NELSON. I thank the Senator for his information.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, in his congressional message on consumer problems, President Johnson called for packaging and labeling legislation to assure the American consumer access to information regarding quantity, quality and price which will enable him to "make a rational choice among competing products."

Mrs. Esther Peterson, Chairman of the President's Commission on Consumer Affairs, told me recently in a television interview that she considers truth-in-packaging legislation one of the most important measures before Congress this year.

Speaking as the expert in this field, Mrs. Peterson said that today's marketplace requires a package which tells the buyer the complete story just as the store clerk used to tell the story in the old days.

And, speaking as a homemaker and shopper herself, she said:

I don't like these products that are called "new" when the only thing new about them is a reduction in contents and no decrease in price!

I think everyone who has spent time mulling over the multitude and variety of packages on our supermarket shelves, trying to select the best buy, will agree that it is time that we consider the welfare and best interests of the consumer.

Presently, he is confronted by a bewildering array of sizes, shapes, and quantities in packages.

I believe that S. 985 will help solve this problem by simplifying shopping, and I am certainly pleased that this bill is finally out of committee and before us on the Senate floor.

I have in previous years cosponsored and in other ways worked for packaging and labeling legislation, and several years ago I voted for an earlier, stronger bill in the Antitrust and Monopoly Subcommittee. Unfortunately, the proposal got no further in the Judiciary Committee.

The revised, streamlined measure before us today reflects a great deal of work. I think the important changes which have been made have served to remove any valid objections to the proposal.

Over the past 6 years there have been extensive hearings and volumes of testimony on this subject, before both the Judiciary and the Commerce Committees.

Certainly this has afforded ample opportunity for the presentation of all views and for thorough consideration of the proposal.

The intent of the manufacturer is not the issue at hand here. The problem is the confusion which results from current packaging practices.

This measure would set reasonable standards for fair weights and measures and for clear, precise labeling of packages. In granting important voluntary and discretionary authority to industry, I believe that this bill has established a fair balance between the manufacturer and the consumer.

The voluntary standards procedure of the Commerce Department was established some 40 years ago. Since that time, uniform standards have been developed and have proved quite successful, the outstanding example being the standardization of can sizes as the Commerce Committee notes in its report.

I cannot accept the old argument that the housewife and shopper, who would be most directly affected by S. 985, does not want or need this legislation.

I cannot believe that any woman really enjoys the mental slide-rule feat of trying to compute the price difference between the jumbo-family 27-ounce size for 49 cents and the 1 quart 3-ounce giant economy size for 70 cents.

I remember going to the grocery store once myself with explicit instructions to pick up frozen vegetables for our family of eight for dinner. Not being the most experienced supermarket shopper, I came home with two packages, only to be admonished by my wife and sent back in a hurry for more. I learned the hard way that while these packages may say they contain servings for four, I should have known that it takes three packages for eight people. This failure of my multiplication tables was sufficient to

prompt my early interest in fair packaging legislation.

The housewife and frequent shopper has for too long been forced to accept this confusion. Many adjustments and computations must be made with regard to servings, super-jumbo designations, label pictures which bear little resemblance to the contents, and the vague cents-off promotion. This need not and should not be the case.

Surely, it takes only one trip through our stores to demonstrate the need for a fair packaging legislation. The bill before us is a good bill, thoroughly considered and carefully drawn. I am convinced that it will permit the consumer to make a valid decision in buying many commodities, without resorting to the mental gymnastics required of shoppers now.

I strongly support its approval, without weakening amendments, and without any further procedural maneuvering designed only to prevent its passage or to delay its implementation.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from Wisconsin.

NOBODY LIKES IT BUT THE PEOPLE

Mr. PROXMIRE. Mr. President, some would have us believe that the truth-in-packaging bill before us today is not of any great interest to American consumers. On the face of it, that argument strikes me as spurious. Certainly, I have attempted shopping in the supermarket enough to understand the problems which face our consumers daily.

However, fortunately I do not have to rely on my own reactions to determine just how much in demand this bill is among American consumers.

The legislative record of this bill—which is already lengthy—supplies ample testimony to the support for the bill among consumers.

A brief look down the list of supporters reveals that organizations representing 43 million consumers have gone on record in support of the bill. Consumers Union, which publishes Consumers Reports, relates that it has received more mail on this bill than on any other issue in its 30-some year history.

Mr. President, I ask unanimous consent that a partial list of supporters be inserted in the Record at the conclusion of my remarks, but here I would like to comment on some of the names on that list.

The significance of various of the supporters, it seems to me, is particularly interesting.

Naturally, we would expect to find consumer groups—such as the Cooperative League of the United States which represents 15 million family-owners of stores throughout the United States on the list. But also included is the National Federation of Independent Businesses—whose 190,000 members operate small stores.

A poll of their membership revealed they largely supported the bill. Thus, the men who day-by-day meet consumers—and listen to their shopping problems—agree that Truth in Packaging would help solve some of the problems.

Another body of experts in this field—State directors of weights and measures departments—voted 81 percent for the bill.

The Kansas Home Economists Association, an organization of 700 home economists, adopted a resolution in support of the bill—unanimously.

And, perhaps the greatest testimony to the grassroots support for the bill are the hundreds—indeed thousands—of letters Members of this Congress have received from housewives themselves urging enactment of the bill.

Many of these letters not only urge support for the bill—but offer detailed explanations of experiences which testify to its need.

Mr. President, it seems the need for this bill has been abundantly demonstrated both by testimony in committee and by the impressive list of supporters. Some may have thought that the earlier bill contained serious drawbacks which would have unduly harassed industry—a fact that would have outweighed the advantages of the bill. While I do not subscribe to that theory, certainly it is beyond me how any one could apply that criticism to the bill before us.

Frankly, the safeguards for industry are such that I suspect the adamant consumer groups might be wondering if anything will be accomplished at all. I think it will. I think the Commerce Committee has put before us a very good bill which will help the consumers—without hurting industry. In my opinion we should move to approve this bill forthwith.

Supporters of truth in packaging:

AFL-CIO, 13 million.

Cooperative League of the United States, 15 million.

Rural Electric Cooperative Association representing 4,715,462 member owners of 979 electric systems.

National Council of Senior Citizens, 2 million.

National Retired Teachers Association and American Association of Retired Persons, one-half million.

National Council of Negro Women, 3,850,000.

Michigan Credit Union League, 1 million.

National Farmers Union, 750,000.

National Grange, 700,000.

National Federation of Business and Professional Women's Clubs, 175,000.

National Council of Jewish Women, 123,000.

American Veterans Committee, 25,000.

National Consumers League, 15,000.

Other organizations which, while smaller in some instances, rate special attention because their membership is especially qualified to judge this bill include:

The Council of Economic Advisors.

The President's Advisory Council on Consumer Interests.

The Special Assistant to the President for Consumer Affairs.

The Secretary of Commerce.

The Food and Drug Administration Commission.

The Federal Trade Commission.

National Federation of Independent Businesses.

State directors of weights and measures departments, 81 percent who were in favor of the bill in a poll conducted by the Weights and Measures Research Center.

Executive Committee of the National Association of State Department of Agriculture.

Kansas Home Economists Association, an organization of 700 home economists who at a convention unanimously adopted a resolution in support of the bill.

Federation of Homemakers, a national organization with membership in all States.

Consumers Cooperative of Berkeley, Maryland Consumers Council, Association of California Consumers and the Harlem Consumers Education Council.

Colorado House of Representatives, which adopted a House Memorial in favor of the bill.

New York State Joint Legislation Committee on Consumer Protection which after intensive study is recommending adoption of a similar bill.

Mr. MAGNUSON. Mr. President, I yield 2 minutes to the Senator from Virginia.

LABELS IN AN ADULT WORLD

Mr. ROBERTSON. Mr. President, we are voting today on a bill concerning packaging—a bill to regulate labels on packages. It is frequently called the truth-in-packaging bill.

It seems to me appropriate at this point to stop for a moment and consider labels in an adult world. Let us look at what we are doing and saying and what the press and the public are doing and saying. Are we and our opponents engaging in exactly the sort of labeling practices which we are trying to regulate?

For example, I am voting for S. 985. I am doing so because I think it is a good bill, a sound bill, a workable bill and one which will help to solve a problem in a responsible and a sensible fashion. I voted against Senator Cotton's amendment because of this view, and I intend to vote for the bill because of this view.

I am not voting for the bill because of its label—the truth-in-packaging bill. I would not have voted for the original bill considered in previous years by the Judiciary Committee which was given the same title—the truth in packaging bill—because that was a very different bill. The substantial amendments which the Commerce Committee has made to the bill have changed it from an unreasonable and unworkable bill to a reasonable and workable bill. So, though the label truth in packaging is still the same, the contents of the package have changed, and I now intend to vote for the bill instead of against the bill.

I am entertained to see that my vote in favor of S. 985 is a surprise to some who thought that because I oppose a so-called truth-in-lending bill pending before the Banking and Currency Committee, I must, therefore, oppose any and every bill labeled truth in packaging, no

matter what is in the bill. It so happens that I do oppose the so-called truth-in-lending bill. I do not think that particular bill is the right way to bring about truth in lending. In fact, I do not think any Federal legislation is the right way to bring about truth in lending. I also agree with the Federal Reserve Board, the Federal Trade Commission, and the Department of Justice that the particular bill pending before the committee is in any event unworkable and impracticable in its present form.

But I am not influenced in my judgment on the so-called truth-in-lending bill by its label any more than I am influenced in my judgment on the so-called truth-in-packaging bill by its label. I prefer instead to look at the contents of the package and see whether I think the contents are desirable and appropriate. I think that, as responsible legislators, it is our duty to look at the contents of the legislative packages presented to us and exercise our judgment with respect to the merits of the contents, and not to avoid responsibility and mental effort by concerning ourselves only with labels.

Mr. MAGNUSON. Mr. President, I yield 3 minutes to the Senator from Wyoming.

DOWN TUMBLES THE BOGEYMAN THAT TRUTH IS EXPENSIVE

Mr. McGEE. Mr. President, as responsible legislators, certainly none of us would like to pass a bill which, no matter how noble its purpose, had the end result of inflicting harm.

This is what it has been said we would be doing if we enacted the truth-in-packaging bill. Even some who say they admire its intents claim that they cringe at its effects. We are told that, while trying to provide the consumer with sufficient information for shopping decisions which would save money, we would increase manufacturers' costs greatly—costs which the budget-watching consumer would ultimately have to pay.

It seems proper, then, to examine these charges.

Two sources of reliable information are available: The bill itself—S. 985, as amended by the Commerce Committee—and an estimate of probable costs prepared by the Department of Commerce.

The only provisions of the bill which would affect all products within its realm are the mandatory sections. These all refer to the package label. Under the truth-in-packaging bill, all labels affected must:

First. Identify the commodity and the name and place of business of the manufacturer, packer, or distributor.

Second. State the net contents in ounces or in whole units of pounds, pints, or quarts if under 1 gallon or 4 pounds.

Third. State net contents in conspicuous, easily-legible type in a size to be established in relationship to label size and generally parallel to the display base.

Fourth. Carry no modifying words before the net quantity statement.

These basic information requirements, then, are the only ones affecting all products covered by the bill.

And what would be their costs? The Department of Commerce, in their esti-

mate prepared in 1963, said of these requirements:

For those packages not already complying with these provisions, it is conceivable that many of them could achieve compliance by slug changes which would be made on the printing plates presently being used. While the cost of these slug changes would vary widely and depend upon the package involved, in most cases it can be expected that the cost would be no more than \$100 per package type.

Mr. President, this \$100 would be amortized over thousands of packages of each type. Further, as the Department of Commerce pointed out, label changes are so common in the industry as to be routine. And, of course, if the changes necessary to comply with this bill were incorporated with a label change done for another reason, truth in packaging would add no costs to the manufacturer.

Other changes could be required of manufacturers when the Food and Drug Administration or the Federal Trade Commission, depending on the product, determined at a hearing that changes "are necessary to prevent the deception of consumers or to facilitate price comparisons."

Again, the bulk of these changes are on the label. Thus the agencies could:

First. Establish standards for terms such as "family size," "small," or "large" on a product line basis.

Second. Define how much of a product constitutes a "serving" if the label carries a representation as to the number of servings.

Third. Regulate when cents off deals could be printed on the label.

Fourth. Require ingredient information.

As I said, these all concern the label and thus fall into that \$100 estimate of the Department of Commerce.

Only one section of the bill remains: establishing of reasonable weights and measures in various product lines. Here is where most of the criticism and claims of exorbitant costs zeros in.

Various manufacturers have claimed that this provision could cost various numbers of millions of dollars. Even if the weights and measures established were arbitrary, I find it hard to believe the costs could be so high. However, the bill requires that these weights and measures be reasonable—and spells out five areas for the administrators to give special attention.

Leading the list is "the cost of the packaging of the products affected." Clearly if during the extensive negotiation, hearings and discussion required under truth in packaging industry made a case against any weight or measure as exorbitant in cost, the agency could not adopt it.

Further, under the provisions added to this bill by the Commerce Committee, the industry itself has first crack at drawing up the weights and measures standards under the Department of Commerce voluntary product standard provisions. They are the experts. They know the problems. They surely could be expected to promulgate standards which would work little hardships on themselves.

As to just how great the threat of hardship is, let us turn once more to the Department of Commerce report:

A change in the size or shape of the packaging would also involve changes in the packaging line, which includes the machinery for sorting, weighing, measuring, filling, package forming, closing, sealing, labeling and packing into shipping cases.

Where the packaging line is set up for a large volume operations, the line is specifically designed to serve a specific package. The machinery is adaptable to other packages, but the change-over may well require 2 or 3 days downtime and it may involve a cost of \$12,000 to \$15,000 per packaging line.

The impact of this change would, of course, be lessened if it were done in connection with a change which the manufacturer was planning to make in any case for reasons of his own, including product modifications, new promotions, new advertising appeals, etc.

In other words, Mr. President, this kind of shutdown is not unusual—in fact, it is common today and the consumer today is paying for these changes. Thus, under these circumstances, we should anticipate no additional charges passed on to consumers.

However, let the Department of Commerce continue:

The cost of adapting the packaging line is comparatively low per package because it is amortized over a large volume of packages.

So, Mr. President, if the shutdown were merely to conform to the bill, it would result in negligible cost per package. Further, the Commerce Department continues:

In the case of a low-volume product, the packaging line is less complex and it is not profitable to design it for use with that one package alone. Therefore, the machinery is adjustable, and with some types of packaging machinery the adjustment can be made by hand in a matter of a few minutes. Here the change-over in the machinery from one package to another would cost almost nothing.

Mr. President, I think we should not lay to rest concern that, with passing the truth-in-packaging bill, we are putting any financial burden on manufacturers—or consumers.

It seems to me that it should be clear that the advantages of this bill clearly outweigh the disadvantages, and I support its early adoption.

Mr. DIRKSEN. Mr. President, the Senator from Texas [Mr. Tower] has requested that his statement concerning the truth-in-packaging measure, along with certain related material, be printed in the RECORD prior to the final vote. I ask unanimous consent that his statement and material be so included in the RECORD.

There being no objection, the statement and material were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR TOWER

Certainly I believe that all consumer products should be honestly labeled, in order that the consumer can determine contents without encountering difficulties. However, I am concerned, as others have expressed here, that the authority and control which would be placed in the hands of federal officials by this measure may seriously hamper manufacturers, raise consumer costs, and restrict freedom of choice. Amendments to the bill which, in my opinion, would have limited this vast discretionary authority without im-

pairing other meaningful and perhaps wise provisions of the bill were, unfortunately, rejected.

Numerous consumer protection activities of various federal departments and agencies are, of course, currently performing activities for the protection of consumer interests. Several hundred activities are being performed directly or indirectly in the protection or advancement of consumer interests. Thousands of federal employees are involved in behalf of, and millions of dollars annually are expended in support of, consumer interests.

The federal controls called for in this measure may add materially to consumer costs, through higher packaging costs.

As I have noted previously during the debate, I have seen little consumer demand for this measure. Industry itself has largely recognized that one of its primary responsibilities has always been to provide proper packaging and labeling for its goods. I think industry is continuing low and will continue in the future to be responsive to consumer desires.

In the final analysis, it is the consumer desires and wishes which should and must be met.

Reporter Bob Lee of the Houston Post has prepared and had published a very detailed and "in-depth research" series of articles concerning the bill. The pros and cons are, I believe, presented well, and I submit them for the RECORD.

[From the Houston (Tex.) Post, May 15, 1966]

CONSUMER—CHAMP OR CHUMP? SHOPPER FACING MANY PITFALLS

(By Bob Lee, Post reporter)

The Houston housewife—like her counterparts all over the United States—enters a modern-day world of Alice in Wonderland when she walks into a supermarket these days.

Never before has she had a more kaleidoscopic array of sunrise products to choose from—some 4,300 in 1954, more than 8,000 now—all screaming for her attention.

But never before—because of modern merchandising practices—have there been so many pitfalls on the road to the best buy.

In an effort to determine whether the consumer is being dazzled with the glitter and claims on containers at her expense, The Houston Post took a look at the display shelves of several independent and chain-operated supermarkets in Houston.

This five-part series will tell what a reporter found; what chemists found; examine the Truth-in-Packaging Bill; and present the pros and cons of it.

Food prices are up 14 per cent over 1962, and yet in many cases, the housewife is getting less for what she pays.

She has to be quick and wary . . . if she is going to stretch her budget dollar as far as it can be stretched.

For in this flash and fancy wonderland of the supermarket, what "seems to be" is not always "what is."

In short, the housewife is enjoying a "selective feast," but if she is not careful, a "value famine."

The container is the thorn on the flower stem.

There are those who argue this is the way she wants it, that the container offers attractiveness, selectivity and, most of all, convenience.

There are those who argue she does not want it this way at all, that she has been ensnared in a merchandising booby trap designed to deceive her . . . and to cheat her.

President Kennedy noted that "consumer choice is influenced by mass advertising utilizing highly developed arts of persuasion."

He said that the consumer has no way to determine whether the large "economy size"

is truly a bargain. A close look reveals too often that it is the reverse.

President Johnson also sees perplexities confronting the average consumer.

On Oct. 15, 1965, in a message to the Consumers Advisory Council, he said:

"Informed consumer choice among increasingly varied and complex products requires information concerning price, quantity and quality."

There is a piece of legislation, the Truth-in-Packaging Bill, which was approved by a Senate committee Friday.

It will now go to the floor of the Senate for a vote.

The bill, authored by Sen. PHILIP A. HART, D-Mich., with 28 other House and Senate sponsors, has a good chance of passage, a HART aide told the Post.

The bill would tighten government controls over packaging.

Is the bill actually needed?

The editors of "Consumer Reports" had this to say about it:

"Everybody, it appears, is against the Truth-in-Packaging bill except the people."

Max Banzhaf, vice president of Armstrong Cork, which among other things produces baby food containers, said that if manufacturers are forced to change packaging machinery, it could cost consumers 30 percent more in compensation price hikes.

Civic groups and trade unions with a total membership of 42 million have endorsed the Hart bill.

Three of the biggest guns against it are the National Association of Manufacturers, the Grocery Manufacturers of America, and the U.S. Chamber of Commerce.

The philosophies of the opposing factions seem to be well defined.

The outcome of the struggle should be decided within the next few weeks.

That outcome will affect an \$80 billion-a-year industry—and you, as the consumer.

The Post's check of supermarket shelves revealed several things—the most significant of which is that the American consumer is paying a high price for the container—metal, plastic, paper, fabric, glass and otherwise—his products are packaged in.

The container represents a \$20 billion industry and some experts predict that outlays may rise by half again as much in the next five years, according to "It's What's Inside That Counts," a publication distributed by the Industrial Union Department, AFL-CIO.

In Houston, the Post reporter found:

Short weights in sacks of potatoes, oranges and other goods; what was pictured on the outside was not always what was inside.

The "serves-so-many" designations on some frozen entrees, and other packaged goods often meant, but never said, "for people with very light appetites";

Many of the claims on the packages simply were not true—no matter how you looked at them;

Chocolate cookies without chocolate; frankfurters that contained little meat; cheese that was packaged like cheese, next to cheese containers which, in reality, contained little cheese;

Boxes of soap with lots of "slack fill," usually known as "empty space."

The reporter found that the housewife had to be a mathematical whiz kid to figure out how much she actually was paying for a product.

Next: A computer would have helped.

[From the Houston (Tex.) Post, May 16, 1966]

CONSUMER—CHAMP OR CHUMP?—TINY COMPUTER WOULD BE VALUABLE SHOPPER'S AID

(By Bob Lee)

A pocket-sized computer—or at least a slide rule—would have been a big help on my shopping spree of Houston Independent and chain-operated supermarkets.

But they do not yet make a pocket-size computer (as far as I know) and slide rules are for engineers . . . not consumers.

Even with the able assistance of a wife (with 10 years' experience in such things and a bachelor of science degree in marketing) the going was tough . . . when I tried to determine which was actually the best buy.

I was not always sure of the contents of a package, even after carefully reading labels . . . because we did not have a chemist's dictionary.

I went, I saw, I bought—which is exactly what any healthy American would do in a beautifully stocked supermarket selling everything from caviar to Batman capes.

Some of our purchases were later analyzed by two Houston chemists, weighed and tested to see if the contents were as the label said.

We will go into these chemists' reports later.

I got my first awakening when I reached for a package of chocolate cookies.

"Not those," my wife said. "They don't have any chocolate in them. Read the fine print on the back."

In the long and confusing list of ingredients, there was no mention of chocolate, only coloring.

I pick out a package of chocolate almond cookies and started looking for the weight to determine if the price was a good or a bad buy.

It took five minutes to find the weight.

Should a person have to search for net weight?

Passing the soap shelves, I automatically reached for an 82-cent container of "Dove" because it said "13 cents off regular price" on it.

"There's a bargain," I remarked, a little proud of myself. "Saved 13 cents. It says so right there."

The wife, again calling on the know-how of 10 years of close study, asked:

"Thirteen cents off what?"

"Off the price," I told her. "See? Right there."

She only smiled. I noticed that other soaps made similar claims. "Bold," 10 cents off, "Dash" with a net weight of nine pounds, 13 ounces on the box, "30 cents" off emblazoned across it.

I selected a 79-cent "giant size" (three pounds one ounce) of "Fab" that had 10 cents off printed on it.

When I tried to get that "10 cents off" the regular price at the counter, the checker looked at me with a tolerant, matronly smile.

"The price we marked includes the 10 cents off," she said.

It took a moment, but then it came clear. The "savings" on the box was put there by the manufacturer . . . and he has no say-so about what the retail price will be.

During that first day, I learned a lot of things about sizes also.

There are all kinds of sizes, "king size," "giant size," "regular size," and "economy size"—all in different containers, of a variety of shapes, all carrying fractional weights that would have taken a slide rule to figure quickly, for the purpose of comparing prices.

As a fast one for you, Del Monte green lima beans, net weight one pound, one ounce (Serving three to four persons) for 35 cents.

Then two smaller cans, two for 43 cents, each containing eight and a half ounces.

I settled for the 35-cent can, of course, when I figured two eight and a half-ounce cans have the same total weight as the one-pound, one-ounce can.

Dental cream presented an interesting situation.

"Colgate" has a regular size in the familiar red-and-white lettering-box containing 3.25 ounces.

The price was 57 cents.

Immediately adjacent to this box was a "special," red, black, white and blue-with-pale green box of Colgate. This one is called

"Electrix," tooth paste, or for "electric tooth-brushes."

This larger box contains the same amount, 3.25 ounces, but the cost was 87 cents—or 30 cents more than the other.

The active ingredients on both read "Sodium N-Lauroyl Sarcosinate," although the "Electrix" claimed "special concentrated cleaning power."

Well, it might have contained "special concentrated cleaning power."

Although the kids own an electric tooth-brush, I did not think the "special cleaning power" was worth 30 more cents.

I began to understand why there are groups of people all over the country seeking a Truth-in-Packaging bill which establishes standard weights, and prohibits deceptive packaging.

There was a study at Eastern Michigan University in 1965, in which 33 college-educated wives were given a list of 20 common items to buy at their supermarkets.

They were asked simply to buy the most economical packages of each—that is, get the most for their money.

Out of the 660 buying decisions they made, 43 per cent were wrong. On the average, the women spent 11 cents more out of each shopping dollar than was necessary.

If this 11 cents more per dollar were extended over the course of a year, it would mean that the budgets of these women would be increased 9 per cent.

The cost of food is already 14 per cent higher than it was in 1962.

There were interesting sidelights on my shopping spree—for example, Gerber's baby food labels that tell you what the ingredients are, but which do not specify the amounts of each ingredients.

Canned cat food on the other hand that had the amounts of ingredients listed, along with some dog foods, which brings up another aside:

To my dismay, I discovered why my German Shepherd has lost a lot of weight recently. We have been feeding him canned "horsemeat" that actually contains only the juices of horsemeat.

True, the truth was buried in complicated wording in the label.

But should a shopper be forced to read every label before he buys?

Can he not trust the wording of a brand name, or the pictured contents?

I bought two-for-49 "Swanson" beef pies U.S. inspected, purely because the picture on the container was enticing.

It showed an open-faced beef pie crowded with big luscious chunks of beef.

I found two sugar cube-sized pieces of meat in the beef pie I bought. The rest was:

"Beef broth, enriched wheat flour, animal and vegetable shortening, water, potatoes, tomatoes, carrots, beef fat, modified food starch, salt, peas . . ." and other things—including caramel coloring.

The "beef" in this particular beef pie was in the same league as the amount of "pork" in some pork 'n beans.

The business of shopping apparently goes back to a basic philosophy of business itself: Caveat emptor, or—"Let the buyer beware."

But as the store manager shrugged when I later called it to his attention: "Who can complain when it's a two-for-49 buy?"

The American shopper might have reason to complain . . . Either by accident, or intent—He is being had . . . as our chemists' reports indicated.

Next: Packaged meat or cereal?

[From the Houston (Tex.) Post,
May 17, 1966]

CONSUMER—CHAMP OR CHUMP? UNITED STATES, TEXAS PACKAGING LAW, FULL OF HOLES

Would the truth-in-packaging bill kill or cure the consumer?

There are strong arguments on both sides.

One side contends the bill would hurt the economy, increase consumer costs, and put scientific progress in food processing into a deep freeze of regulations administered by a bureaucratic packaging czar.

The other contends it would help the economy, make shopping easier, reduce unfair trade practices which hurt food manufacturers as well as consumers, and make "shopper" spell "champ" instead of "chump."

The last two parts of this series will be devoted to the pros and cons of the truth-in-packaging bill, authored by Senator PHILIP A. HART, D-Mich.

The bill was approved by the U.S. Senate Commerce Committee last Friday.

Chances are, it will now come to a vote in the Senate, if it does not flounder in a storm of amendments.

Here are the main points:

Require net weight or net content statements or both be clearly stated on the front part of packages and labels.

Prohibit qualifying words or phrases regarding net weight or content.

Set minimum standards for the location of net weight or contents statements.

Set standards of type size and face in which weight or content statements are printed.

Prohibit the packager or distributor from printing on the packages a price (or savings) which is below the regular retail price, or imply a savings is being given the purchaser because of the size or quantity, when it actually is not.

Make allowances for exceptions because of the nature, form, or quantity of the product.

Prohibit use of deceptive pictures or illustrations on packages and labels.

These are only a few of the provisions of the bill, but they appear to be of most interest to the consumer. Because of the limitations of space, it would be impossible to print the bill in its entirety here.

Senator HART said that the bill would not, as is maintained by some critics:

Standardize all packages and make shopping uninteresting.

("The fact that whisky comes in fifths has not made whisky bottles unimaginative," he said.)

Cost industry so much that consumer prices would rise.

("Packages and labels are continually changing anyway, as all shoppers know," he said. "Industry cost estimates have been exaggerated.")

Stifle innovation and development of new products.

("Competition will always motivate businessmen to improve their products," he said.)

President Johnson has asked for truth-in-packaging legislation three times in 1966:

In his State of the Union, Economic and Consumer messages to Congress.

In his Economic Message, he said:

"The consumer must have access to clear, unambiguous information about products and services available for sale. This will enable him to reward with his patronage the most efficient producers and distributors, who offer the best value or the lowest prices."

He went on:

"We should wait no longer to eliminate misleading and deceptive packaging and labeling practices which cause consumer confusion."

During the Post look on the food market shelves in Houston, several cases of deceptive packaging, labeling practices which cause consumer confusion, and short weights were found.

That there is some need for change was clear.

State officials in Texas—as in most other states—believe there is a need for a truth-in-packaging bill.

Robert T. Williams, chief of consumer protection division, Texas Department of Agriculture, told The Post:

"That bill (the truth-in-packaging) is about the best thing that could happen to the consumer. There is a big need for it."

Texas, like several other states, has laws against deceptive packaging, obscure weight designations, etc., but again like other states, there are holes in them.

For example: There are no provisions for multiple package sizes; packaging to price; odd-sizes (which makes a price comparison almost impossible); use of misleading art on packages; misleading quantity terminology such as "big jumbo size," or "king economy size," and "large economy size."

Travis Edwards, in charge of policing weights and measures in District 4, which includes Houston, said that his office must "stress the things we can do something about."

Edwards—who runs an extremely active weights and measures policing division—has 10 inspectors. There are 7,555 gas pumps in Houston to keep track of 3,600 scales, and about 2,000 grocery stores.

He said that under the existing law, it is extremely difficult to prove intent in short weight cases.

But there are four cases pending court action against manufacturers.

Federal weights and measures agencies have as difficult a time policing under existing laws, which critics of the bill say are ample.

Existing federal laws for the most part have been in force for half a century.

Most of them were written in the days before prepackaged foods took charge of the market shelves.

State and local weights and measures inspectors were aware many years ago that the laws they administered were obsolete.

They tried to do something about it in 1939.

The National Conference on Weights and Measures at which state officials gather each year in Washington, asked Congress for new laws to provide some orderly way of establishing the quantities in which basic products might be packaged. This was to insure the buyer's right to compare prices.

Yet it was not until 1966 that a bill that would preserve the buyer's right to compare prices got anywhere near a vote.

The truth-in-packaging bill was in the Senate committee almost a year before it was passed out to the Senate.

Hearings were held in March and April of 1963 for the forerunner of the present bill.

Next: The "cons" of the truth-in-packaging bill.

[From the Houston (Tex.) Post, May 18, 1966]

CONSUMER—CHAMP OR CHUMP? FOOD INDUSTRY SEES NEED FOR BILL TO PROTECT BUYER

The housewife is not alone in hoping that something can be done about truth in packaging. Both wholesale and retail grocers favor it to protect the consumer.

"Our entire existence as a company depends upon consumer approval," said Albert N. Halverstadt, vice president for advertising of the Procter and Gamble Company, in testimony before a committee hearing reports on Senate bill 387, the truth-in-packaging bill.

Halverstadt said, "Protecting the consumer is an objective we share with the sponsors of this bill; in fact, the reputation of our company depends upon our consistently accomplishing this objective."

Halverstadt, and most other industry representatives who testified, were opposed to the bill because "it duplicates the authority and functions of existing bills and regulatory agencies and will only add cost to food packaging—a cost that will have to be passed on to the consumer."

Grocery retailers value a protected customer as a pleased and repeat customer.

However, "the bill proposes much more than the regulation of deceptive packaging and labeling referred to in its title," said F. T. Dierson, general counsel for the Grocery Manufacturers Association, in his committee testimony. "Powers granted by the bill are so broad and its anti-trust purpose so restrictive that in actual operation it is likely to work serious injury to consumers, to industry, and to the national economy," he said.

Food costs, up 14 per cent over 1962, still represent an expenditure of only 19 cents for every dollar of take-home pay in the United States today compared with 26 cents in 1947-49, grocymen say in giving an example of the efforts the industry (an \$80 billion one) has made to hold the price line.

Locally, retailers report that supermarket prices are 20.8 per cent below the national average.

Retail reports show that today's average factory worker works only 37 hours monthly to pay his grocery bill while in 1947-49 it took him 60 hours.

Food industry representatives, before the committee considering the bill and in private conversations, claimed that existing laws and "self-regulation" by the industry have in the past given the consumer more for his dollar and will continue to do so in the future.

Some practices by manufacturers, however, are disliked by retailers and for this reason some sections of the proposed legislation are looked upon favorably.

The "cents off" promotion by manufacturers, for example, creates problems for retailers.

Supposedly the "cents off" markers on a product mean the retailer paid that much less for the item. He can then either mark the item with its regular price and deduct the "cents off" at the cash register or he can mark the item that many "cents off" on the regular retail price.

The first method is a confusion factor to checkers and the second method confuses the customer. The premarked reduction is usually used in Houston stores.

"This one thing has cost us a great deal of goodwill," one Houston grocer said. A shopper has to either be familiar with the regular price of the item to know whether the reduction was passed, or have faith in the integrity of his grocer, the retailer said.

The retailer prefers to schedule his own "specials" rather than have them pre-labeled by the manufacturers.

"Pre-labeled 'cents-off' packages force us to remove all our 'regular' items from the shelves and restock with the reduced packages," a representative of one Houston chain said. He said the move was necessary to meet competition and it meant holding 'regular' items in storage until the manufacturer completed his special.

"These specials cost us money out of an already small profit margin," he said.

Retail grocers, according to statements by chain and independent representatives, operate on an average 1 per cent profit margin. Some specialty items, of course, are sold at much higher nets, but some items, particularly staples such as sugar and flour are frequently carried at a loss.

Procter & Gamble makes eight different brands of soap and packages them all in the same size box (standardization to cut cost). Since different densities are involved the weights and packed bulk vary. Halverstadt said that the labels, in accordance with existing government regulations, state these exact quantities.

"But," he said, if the government ordered the firm to pack its detergents in, say one, three and five-pound boxes the result would be our having to spend \$10 million for different packing equipment, or modification."

Food industry representatives believe that although some instances of control necessity

exist the pending bill is too general and will be more of a confusion factor than a help to either the consumer or the industry.

One representative said that the "standard governmental approach to the problem with additional departments and manpower will, in the long run, increase not only wholesale and retail food prices but taxes as well—to support a new bureaucracy."

Barron's National Business and Financial Weekly said the bill was proposed because American housewives have too much to choose from. "At least 10,000 different items line supermarket shelves—every colorful package serving as self-salesman, calling for attention as best it can," said Barron's.

"The food industry," Barron's said, "depends upon repeat sales—and trying to cheat the U.S. housewife doesn't pay."

Industry and the housewife can provide, according to most observers, adequate "policing" without governmental control.

Mr. MAGNUSON. Mr. President, the labor and effort involved in bringing this major legislation through its long committee life of hearings and executive sessions required strenuous effort and resourcefulness on the part of the committee's staff counsel for trade regulation, Michael Pertschuk, the chief counsel, Gerald Grinstein, and the assistant chief counsel, Jeremiah Kenney. The committee also benefited greatly from the assistant and counsel of both the chief counsel of the Antitrust and Monopoly Subcommittee, Jerry Cohen and the senior legislative counsel, John Herberg. I want to express now the committee's gratitude for such able counsel.

Mr. HART. Mr. President, in only a few years, Chairman MAGNUSON has transformed the Senate Commerce Committee from its traditional role as a passive arbitrator of industry disputes into a bold innovator of consumer protection legislation.

In the last several weeks alone, the committee, under his leadership, has produced the tire safety and grading bill, which he authored. And only yesterday morning, Senator MAGNUSON called the committee into executive session to hammer out strong and meaningful automobile safety legislation, while in the afternoon, he led the successful floor fight to stave off the challenge of weakening amendments to the packaging bill.

He deserves the heartfelt thanks of all who are concerned with the cause of the American consumer.

Mr. MAGNUSON. Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Mr. President, will the Senator from Illinois yield?

Mr. DIRKSEN. Mr. President, I yield 3 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. HRUSKA. Mr. President, the pending bill has had a long legislative history. It has some splendid, declared objectives. I think that they are very worthy ones. However, I cannot vote for the bill. There are several reasons for that decision based primarily on the standardization procedures of section 5.

First. The present law, regulations, and powers of our regulatory bodies are already adequate for achieving and attaining the declared objectives of the bill.

Second. The cost to consumers will be substantially increased.

Third. The novelty and innovation in areas covered by the bill will be affected and will be substantially impaired. There is an undue, excessive, and unwise delegation of powers to administrative authorities, in section 5 of the bill particularly. This delegation of powers is in the legislative, the administrative, and the judicial fields.

For these reasons, among others, I shall vote in opposition to the bill.

Let me say that with the deletion of section 5, which the amendment proposed by the Senator from New Hampshire would have accomplished, the bill would then have been in a shape for favorable consideration by me. It would have contained surplusage, in many instances and in many respects, but not so harmful as to call for a negative vote.

However, because of the inclusion of section 5, and all the trouble that I am afraid it will eventually bring, it is my intention to oppose the bill and therefore to vote in the negative. In my opinion, the bill in its present posture will not assist those it purports to assist, the American consumer. Indeed, it will have the opposite effect and will work to the consumer's detriment.

Mr. DIRKSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the bill has now been yielded back. The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered; and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DIRKSEN (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Colorado [Mr. DOMINICK]. If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. LONG of Louisiana. I announce that the Senator from Idaho [Mr. CHURCH], the Senator from Alaska [Mr. GRUENING], the Senator from Arizona [Mr. HAYDEN], the Senator from New Mexico [Mr. MONTOYA], and the Senator from Maryland [Mr. TYDINGS] are absent on official business.

I also announce that the Senator from Louisiana [Mr. ELLENDER], the Senator from New York [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from South Carolina [Mr. RUSSELL] are necessarily absent.

I further announce that, if present and voting the Senator from Idaho [Mr. CHURCH], the Senator from Louisiana [Mr. ELLENDER], the Senator from Alaska [Mr. GRUENING], the Senator from New York [Mr. KENNEDY], the Senator from new Mexico [Mr. MONTOYA], the Senator from Rhode Island [Mr. PELL], and the Senator from Maryland [Mr. TYDINGS] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from Colorado [Mr. ALLOTT], the Senator from Kansas [Mr. CARLSON], the Senator from New Jersey [Mr. CASE], and the Senator from Vermont [Mr. PROUTY] are absent on official business.

The Senator from Hawaii [Mr. FONG], the Senator from California [Mr.

KUCHEL] and the Senator from Texas [Mr. TOWER] are necessarily absent.

The Senator from Idaho [Mr. JORDAN] is absent on official committee business.

The Senator from Colorado [Mr. DOMINICK] is detained on official business, and his pair has been previously announced.

If present and voting, the Senator from New Jersey [Mr. CASE], the Senator from Hawaii [Mr. FONG], the Senator from Idaho [Mr. JORDAN], the Senator from California [Mr. KUCHEL], and the Senator from Vermont [Mr. PROUTY] would each vote "yea."

On this vote, the Senator from Colorado [Mr. ALLOTT] is paired with the Senator from Texas [Mr. TOWER]. If present and voting, the Senator from Colorado would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 72, nays 9, as follows:

[No. 94 Leg.]

YEAS—72

Alken	Holland	Muskie
Anderson	Inouye	Nelson
Bartlett	Jackson	Neuberger
Bass	Javits	Pastore
Bayh	Jordan, N.C.	Pearson
Bible	Kennedy, Mass.	Proxmire
Boggs	Lausche	Randolph
Brewster	Long, Mo.	Ribicoff
Burdick	Long, La.	Robertson
Byrd, Va.	Magnuson	Russell, Ga.
Byrd, W. Va.	Mansfield	Saltonstall
Cannon	McCarthy	Scott
Clark	McClellan	Smathers
Cotton	McGee	Smith
Dodd	McGovern	Sparkman
Douglas	McIntyre	Stennis
Ervin	Metcalf	Symington
Fulbright	Miller	Talmadge
Gore	Mondale	Thurmond
Griffin	Monroney	Williams, N.J.
Harris	Morse	Williams, Del.
Hart	Moss	Yarborough
Hartke	Mundt	Young, N. Dak.
Hill	Murphy	Young, Ohio

NAYS—9

Bennett	Eastland	Hruska
Cooper	Fannin	Morton
Curtis	Hickenlooper	Simpson

NOT VOTING—19

Allott	Fong	Pell
Carlson	Gruening	Prouty
Case	Hayden	Russell, S.C.
Church	Jordan, Idaho	Tower
Dirksen	Kennedy, N.Y.	Tydings
Dominick	Kuchel	
Ellender	Montoya	

So the bill (S. 985) was passed.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HART and Mr. MORSE moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the Senator from Washington [Mr. MAGNUSON] has demonstrated time and again his skillful talents, his effective abilities, and his varied and sincere interests. Time and again through his many outstanding years as Chairman of the Committee on Commerce he has achieved success on a vast number of noble causes he has championed. And always his advocacy has been vigorous, his devotion unswerving. For his many triumphs all America is immensely grateful. Today is no exception.

For the success on truth in packaging clearly marks another triumph for WARREN MAGNUSON. Like so many others it was achieved by capacities unmatched

and by courage undaunted. There is no question that he has won the well deserved allegiance of the American housewife; indeed of all Americans, for whom he has worked so hard.

But equally in the Nation's debt for today's success is the Senior Senator from Michigan [Mr. HART], a chief sponsor of truth in packaging. The sincere and cool wisdom which he brought to the discussion of the measure served more than anything to assure its overwhelming approval by the Senate. Indeed, PHIL HART is to be commended highly for his strong and abiding leadership in the Senate's quest for truth in packaging. His articulate advocacy on the measure was indispensable to its endorsement.

To the distinguished ranking minority member of the committee, the senior Senator from New Hampshire [Mr. CORTON], we similarly are grateful. His able support coupled with his typically generous cooperation assured, in the final analysis, a decisive victory.

And to the distinguished minority leader goes high commendation for his his selflessness and for his splendid cooperative efforts which are so characteristic. He truly is unequalled in his selfless approach to all legislative matters. His leadership today proved no exception.

Of course, other Senators are to be thanked for their strong and articulate support, without which today's achievement would not have been a reality. The junior Senator from Nevada [Mr. CANNON] is an outstanding example. He and others are to be commended for urging their clear and convincing positions which assisted this victory immeasurably. And the cooperative efforts of the Senator from Nebraska [Mr. HRUSKA], the Senator from Kentucky [Mr. MORTON], and the Senator from Colorado [Mr. DOMINICK] were exemplary and essential to efficient and orderly action.

Finally, to the Senate as a whole I personally am deeply grateful for the outstanding manner in which this measure was handled. Its efficient disposition is a tribute to this entire body.

TO PRINT AS SENATE DOCUMENT
COMPILATION ON THE HISTORY
OF THE SENATE COMMITTEE ON
COMMERCE

Mr. MAGNUSON. Mr. President, it is very appropriate, after the fine work of the Senate Commerce Committee on the bill which has just passed, that I submit a resolution for the compilation of materials relating to the history of the Senate Committee on Commerce in connection with the 150th anniversary and that there be printed for the use of that committee 5,000 additional copies of such document.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

The resolution (S. Res. 272), submitted by Mr. MAGNUSON, was referred to the Committee on Rules and Administration, as follows:

Resolved, That there be printed as a Senate document a compilation of materials relating to the history of the Senate Committee

89TH CONGRESS
2D SESSION

S. 985

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 1966

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Fair Packaging and
4 Labeling Act”.

DECLARATION OF POLICY

6 SEC. 2. Informed consumers are essential to the fair and
7 efficient functioning of a free market economy. Packages
8 and their labels should enable consumers to obtain accurate
9 information as to the quantity of the contents and should

1 facilitate price comparisons. Therefore, it is hereby declared
2 to be the policy of the Congress to assist consumers and
3 manufacturers in reaching these goals in the marketing of
4 consumer goods.

5 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING
6 AND LABELING

7 SEC. 3. (a) It shall be unlawful for any person engaged
8 in the packaging or labeling of any consumer commodity (as
9 defined in this Act) for distribution in commerce, or for any
10 person (other than a common carrier for hire, a contract
11 carrier for hire, or a freight forwarder for hire) engaged in
12 the distribution in commerce of any packaged or labeled con-
13 sumer commodity, to distribute or to cause to be distributed
14 in commerce any such commodity if such commodity is con-
15 tained in a package, or if there is affixed to that commodity
16 a label, which does not conform to the provisions of this Act
17 and of regulations promulgated under the authority of this
18 Act.

19 (b) The prohibition contained in subsection (a) shall
20 not apply to persons engaged in business as wholesale or re-
21 tail distributors of consumer commodities except to the extent
22 that such persons (1) are engaged in the packaging or label-
23 ing of such commodities, or (2) prescribe or specify by any
24 means the manner in which such commodities are packaged
25 or labeled.

1 REQUIREMENTS AND PROHIBITIONS

2 SEC. 4. (a) No person subject to the prohibition con-
3 tained in section 3 shall distribute or cause to be distributed
4 in commerce any packaged consumer commodity unless in
5 conformity with regulations which shall be established by the
6 promulgating authority pursuant to section 6 of this Act
7 and which shall provide that:

8 (1) The commodity shall bear a label specifying the
9 identity of the commodity and the name and place of busi-
10 ness of the manufacturer, packer, or distributor; and

11 (2) The net quantity of contents (in terms of weight,
12 measure, or numerical count) shall be separately and accu-
13 rately stated in a uniform location upon the principal display
14 panel of that label; and

15 (3) The separate label statement of net quantity of con-
16 tents appearing upon or affixed to any package—

17 (A) if expressed in terms of weight or fluid volume,
18 on any package of a consumer commodity containing
19 less than four pounds or one gallon, shall be expressed
20 in ounces or in whole units of pounds, pints, or quarts
21 (avoirdupois or liquid, whichever may be appropriate);

22 (B) shall appear in conspicuous and easily legible
23 type in distinct contrast (by typography, layout, color,
24 embossing, or molding) with other matter on the
25 package;

1 (C) shall contain letters or numerals in a type
2 size which shall be (i) established in relationship to the
3 area of the principal display panel of the package, and
4 (ii) uniform for all packages of substantially the same
5 size; and

6 (D) shall be so placed that the lines of printed
7 matter included in that statement are generally parallel
8 to the base on which the package rests as it is designed
9 to be displayed.

10 (b) No person subject to the prohibition contained in
11 section 3 shall distribute or cause to be distributed in com-
12 merce any packaged consumer commodity if any qualify-
13 ing words or phrases appear in conjunction with the separate
14 statement of the net quantity of contents required by sub-
15 section (a), but nothing in this subsection or in paragraph
16 (2) of subsection (a) shall prohibit supplemental state-
17 ments, at other places on the package, describing in non-
18 deceptive terms the net quantity of contents: *Provided*, That
19 such supplemental statements of net quantity of contents
20 shall not include any term qualifying a unit of weight, meas-
21 ure, or count that tends to exaggerate the amount of the
22 commodity contained in the package.

23 ADDITIONAL REGULATIONS

24 SEC. 5. (a) The authority to promulgate regulations
25 under this Act is vested in (A) the Secretary of Health.

1 Education, and Welfare (referred to hereinafter as the “Sec-
2 retary”) with respect to any consumer commodity which is
3 a food, drug, device, or cosmetic, as each such term is defined
4 by section 201 of the Federal Food, Drug, and Cosmetic Act
5 (21 U.S.C. 321) ; and (B) the Federal Trade Commission
6 (referred to hereinafter as the “Commission”) with respect
7 to any other consumer commodity.

8 (b) If the promulgating authority specified in this sec-
9 tion finds that, because of the nature, form, or quantity of a
10 particular consumer commodity, or for other good and suf-
11 ficient reasons, full compliance with all the requirements
12 otherwise applicable under section 4 of this Act is imprac-
13 ticable or is not necessary for the adequate protection of
14 consumers, the Secretary or the Commission (whichever
15 the case may be) shall promulgate regulations exempting
16 such commodity from those requirements to the extent and
17 under such conditions as the promulgating authority deter-
18 mines to be consistent with section 2 of this Act.

19 (c) Whenever the promulgating authority determines
20 that regulations containing prohibitions or requirements other
21 than those prescribed by section 4 are necessary to prevent
22 the deception of consumers or to facilitate price comparisons
23 as to any consumer commodity, such authority shall promul-
24 gate with respect to that commodity regulations effective to—

25 (1) establish and define standards for characteriz-

ing the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) establish and define the net quantity of any commodity (in terms of weight, measure, or count) which shall constitute a serving, if that commodity is distributed to retail purchasers in a package or with a label which bears a representation as to the number of servings provided by the net quantity of contents contained in that package or to which that label is affixed;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents; and

(4) require that information with respect to the ingredients and composition of any consumer commodity be placed upon packages containing that commodity,

except that (A) each such regulation shall be consistent with requirements imposed by or pursuant to the Federal Food, Drug, and Cosmetic Act, as amended, (B) no such regulation shall apply to any consumer commodity for which a definition or standard of identity has been established and is in effect pursuant to a regulation promulgated under that Act, and (C) no such regulation promulgated under this paragraph may require the disclosure of information concerning proprietary trade secrets.

(d) Whenever the promulgating authority determines, after a hearing conducted in compliance with section 7 of the Administrative Procedure Act, that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons such authority shall—

(1) publish such determination in the Federal Register; and

(2) promulgate, subject to the provisions of subsections (e), (f), and (g), regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity shall be distributed for retail sale.

(e) At any time within sixty days after the publication of any determination pursuant to subsection (d) (1)

1 as to any consumer commodity, any producer or distributor
2 affected may request the Secretary of Commerce to partici-
3 pate in the development of a voluntary product standard
4 for such commodity under the procedures for the develop-
5 ment of voluntary product standards established by the Sec-
6 retary pursuant to section 2 of the Act of March 3, 1901
7 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such pro-
8 cedures shall provide adequate manufacturer, distributor, and
9 consumer representation. Upon the filing of any such re-
10 quest, the Secretary of Commerce shall transmit notice thereof
11 to the authority which has caused notice of such determina-
12 tion to be published.

13 (f) No regulation promulgated pursuant to subsection
14 (d) (2) with respect to any consumer commodity may—

15 (1) vary from any voluntary product standard in
16 effect with respect to that consumer commodity which
17 was published—

18 (A) before the publication of any determination
19 with respect to that consumer commodity pursuant to
20 subsection (d) (1) ;

21 (B) within one year after the filing pursuant to
22 this section of a request for the development of a volun-
23 tary product standard with respect to that consumer
24 commodity; or

(C) within such period of time (not exceeding eighteen months after the filing of such request) as the promulgating authority may deem proper upon a certification by the Secretary of Commerce that such a voluntary product standard with respect to that consumer commodity is under active consideration and that there are presently grounds for belief that such a standard for that commodity will be published within a reasonable period of time;

(2) establish any weight or measure in any amount less than two ounces;

(3) preclude the use of any package of particular dimensions or capacity customarily used for the distribution of related commodities of varying densities, except to the extent that it is determined that the continued use of such package for such purpose is likely to deceive consumers; or

(4) preclude the continued use of particular dimensions or capacities of returnable or reusable glass containers for beverages in use as of the effective date of the Act.

(g) In the promulgation of regulations under subsection (d) (2) of this section, due regard shall be given to the probable effect of such regulations upon—

1 (1) the cost of the packaging and the cost to con-
2 sumers of the commodities affected;

3 (2) the availability of any commodity in a reason-
4 able range of package sizes to serve consumer con-
5 venience;

6 (3) the materials used for the packaging of the
7 affected commodities;

8 (4) the weights and measures customarily used in
9 the packaging of the affected commodities;

10 (5) competition between containers made of dif-
11 ferent types of packaging material.

12 PROCEDURE FOR PROMULGATION OF REGULATIONS

13 SEC. 6. (a) Regulations promulgated by the Secretary
14 under section 4 or section 5 of this Act shall be promulgated,
15 and shall be subject to judicial review, pursuant to the pro-
16 visions of subsections (e), (f), and (g) of section 701 of
17 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371
18 (e), (f), and (g)). Hearings authorized or required for
19 the promulgation of any such regulations by the Secretary
20 shall be conducted by the Secretary or by such officer or em-
21 ployee of the Department of Health, Education, and Welfare
22 as he may designate for that purpose.

23 (b) Regulations promulgated by the Commission under
24 section 4 or section 5 of this Act shall be promulgated, and
25 shall be subject to judicial review, by proceedings taken in

1 conformity with the provisions of subsections (e), (f), and
2 (g) of section 701 of the Federal Food, Drug, and Cosmetic
3 Act (21 U.S.C. 371 (e), (f), and (g)) in the same man-
4 ner, and with the same effect, as if such proceedings were
5 taken by the Secretary pursuant to subsection (a) of this
6 section. Hearings authorized or required for the promulga-
7 tion of any such regulations by the Commission shall be con-
8 ducted by the Commission or by such officer or employee
9 of the Commission as the Commission may designate for that
10 purpose.

11 (c) In carrying into effect the provisions of this Act, the
12 Secretary and the Commission are authorized to cooperate
13 with any department or agency of the United States, with
14 any State, Commonwealth, or possession of the United States,
15 and with any department, agency, or political subdivision of
16 any such State, Commonwealth, or possession.

17 (d) No regulation adopted under this Act shall preclude
18 the continued use of returnable or reusable glass containers
19 for beverages in inventory or with the trade as of the effec-
20 tive date of this Act, or the orderly disposal of packages in
21 inventory or with the trade as of the effective date of the
22 regulation.

23 ENFORCEMENT

24 SEC. 7. (a) Any consumer commodity which is a food,
25 drug, device, or cosmetic, as each such term is defined by sec-

1 tion 201 of the Federal Food, Drug, and Cosmetic Act (21
2 U.S.C. 321) , and which is introduced or delivered for intro-
3 duction into commerce in violation of any of the provisions
4 of this Act, or the regulations issued pursuant to this Act,
5 shall be deemed to be misbranded within the meaning of
6 chapter III of the Federal Food, Drug, and Cosmetic Act,
7 but the provisions of section 303 of that Act (21 U.S.C. 333)
8 shall have no application to any violation of section 3 of
9 this Act.

10 (b) Any violation of any of the provisions of this Act,
11 or the regulations issued pursuant to this Act, with respect
12 to any consumer commodity which is not a food, drug, de-
13 vice, or cosmetic, shall constitute an unfair or deceptive act
14 or practice in commerce in violation of section 5 (a) of the
15 Federal Trade Commission Act and shall be subject to en-
16 forcement under section 5 (b) of the Federal Trade Commis-
17 sion Act.

18 (c) In the case of any imports into the United States
19 of any consumer commodity covered by this Act, the pro-
20 visions of sections 4 and 5 of this Act shall be enforced by
21 the Secretary of the Treasury pursuant to section 801 (a)
22 and (b) of the Federal Food, Drug, and Cosmetic Act (21
23 U.S.C. 381) .

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5 (e) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Wel-

1 fare under other provisions of law in cooperation with State
2 governments or agencies, instrumentalities, or political sub-
3 divisions thereof.

4 DEFINITIONS

5 SEC. 10. For the purposes of this Act—

6 (a) The term “consumer commodity”, except as other-
7 wise specifically provided by this subsection, means any food
8 drug, device, or cosmetic (as those terms are defined by the
9 Federal Food, Drug, and Cosmetic Act), and any other
10 article, product, or commodity of any kind or class which is
11 customarily produced or distributed for sale through retail
12 sales agencies or instrumentalities for consumption by indi-
13 viduals, or use by individuals for purposes of personal care
14 or in the performance of services ordinarily rendered within
15 the household, and which usually is consumed or expended
16 in the course of such consumption or use. Such term does
17 not include—

18 (1) any meat or meat product, poultry or poultry
19 product, or tobacco or tobacco product;

20 (2) any commodity subject to packaging or label-
21 ing requirements imposed by the Secretary of Agri-
22 culture pursuant to the Federal Insecticide, Fungicide,
23 and Rodenticide Act, or the provisions of the eighth
24 paragraph under the heading “Bureau of Animal Indus-
25 try” of the Act of March 4, 1913 (37 Stat. 832-833;

21 U.S.C. 151–157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of sections 503 (b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353 (b) (1), 355, 356, 357) ;

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, (27 U.S.C. 201 et seq.) ; or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551–1610) .

(b) The term “package” means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act

1 of August 3, 1912 (37 Stat. 250, as amended; 15
2 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat.
3 1186, as amended; 15 U.S.C. 234-236), the Act of
4 August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C.
5 251-256), or the Act of May 21, 1928 (45 Stat. 685,
6 as amended; 15 U.S.C. 257-257i).

7 (c) The term "label" means any written, printed, or
8 graphic matter affixed to any consumer commodity or affixed
9 to or appearing upon a package containing any consumer
10 commodity;

11 (d) The term "person" includes any firm, corporation,
12 or association;

13 (e) The term "commerce" means (1) commerce be-
14 tween any State, the District of Columbia, the Common-
15 wealth of Puerto Rico, or any territory or possession of the
16 United States, or territory and any place outside thereof,
17 and (2) commerce within the District of Columbia or
18 within any territory or possession of the United States not
19 organized with a legislative body, but shall not include ex-
20 ports to foreign countries; and

21 (f) The term "principal display panel" means that
22 part of a label that is most likely to be displayed, presented,
23 shown, or examined under normal and customary conditions
24 of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby expressly declared that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which differs from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on the first day of the sixth month beginning after the date of its enactment: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with

1 respect to any class or type of consumer commodity on the
2 basis of a finding that such a postponement would be in the
3 public interest.

Passed the Senate June 9, 1966.

Attest:

EMERY L. FRAZIER,

Secretary.

AN ACT

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

JUNE 13, 1966

Referred to the Committee on Interstate and Foreign
Commerce

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
FOR INFORMATION ONLY;
NOT TO BE QUOTED OR CITED)

Issued Sept. 14, 1966
For actions of Sept. 13, 1966
89th-2nd; No. 154

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HIGHLIGHTS: House received veto message on Federal employees life insurance bill.

HOUSE

1. LIFE INSURANCE. Received the President's veto message on H. R. 6926, to increase life insurance coverage for Federal employees (H. Doc. 495); to Post Office and Civil Service Committee. pp. 21493-4
2. D. C. APPROPRIATION BILL. Passed as reported this bill, H. R. 17636, which includes school lunch funds. pp. 21495-7
3. RESEARCH. Passed with amendment H. R. 16559, to authorize Sea Grant Colleges. pp. 21510-23
4. WATER POLLUTION. Rep. Horton spoke in support of H. R. 16076, the bill to expand the water-pollution control program. pp. 21527-8
5. FARM PROGRAM. Rep. Langen criticized the administration's farm-program record,

especially regarding beef imports. p. 21548

6. JOB CORPS. Rep. Mink spoke in support of the Job Corps record. p. 21550
7. SALT-WATER RESEARCH. Received from the Interior Department a proposed bill to provide for participation in construction and operation of a large prototype desalting plant. To Interior and Insular Affairs. p. 21564
8. PACKAGING; LABELING. The Interstate and Foreign Commerce Committee tabled H. R. 15440, to prevent unfair or deceptive methods of packaging or labeling of certain consumer commodities. p. D871

SENATE

9. LIFE INSURANCE. Sens. Carlson and Monroney defended H. R. 6926, the Federal employees life insurance bill which the President vetoed. pp. 21416-7
10. SCHOOL MILK. Sen. Proxmire said the planned budget cuts should not be made at the expense of the school milk program. p. 21419
11. FARM PROGRAM. Sen. Talmadge inserted a summary of the remarks of Under Secretary Schnittker, "Farm Policy--Today's Direction," before the American Farm Economics Association. pp. 21421-3
12. FARM LABOR. Sen. Robertson asked that farm workers on a piece basis be excluded from the labor standards bill. p. 21425
13. DISASTER RELIEF. Sen. Bayh commended the performance of Henry Palm, FHA, in assisting an Ind. town following a tornado. p. 21433
14. CIVIL RIGHTS. Continued debate on H. R. 14765, the civil rights bill. pp. 21445-54, 21461-7, 21476-92
15. CHILD NUTRITION. Conferees were appointed on S. 3467, the child nutrition bill. House conferees have not yet been appointed. pp. 21454-6
16. WORLD FOOD. Sen. Dominick suggested possibilities for alleviating world food needs. pp. 21456-61
17. RIVER BASIN. Passed without amendment H. R. 13508, to direct Interior to cooperate with N. Y. and N. J. on a program to develop, preserve, and restore the resources of the Hudson River. This bill will now be sent to the President. pp. 21476-9
18. INFLATION. Sen. Williams, Del., recommended several actions to control inflation. pp. 21469-76

ITEMS IN APPENDIX

19. WATER SUPPLY. Extension of remarks of Rep. Martin, Ala., on the agricultural potential of the Sand Mountain area in Ala. and the need of assistance for its development. pp. A4781-2

and ordered printed as a House document (H. Doc. 495).

Pages 21493-21494

Presidential Message—Surgeon General's Report: Received and read a message from the President on the Surgeon General's 10th Annual Report pursuant to the Health Research Facilities Act—referred to the Committee on Interstate and Foreign Commerce, and ordered printed as a House document (H. Doc. 496).

Page 21494

D.C. Appropriations: By a record vote of 320 yeas to 3 nays the House passed H.R. 17636, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1967.

Rejected a recommittal motion designed to reduce by 5 percent the funds appropriated by a record vote of 103 yeas to 217 nays.

Pages 21495-21510

Sea Grant College: By a voice vote the House passed H.R. 16559, the National Sea Grant College and Program Act of 1966.

Adopted an amendment that limits any single State to receive no more than 15 percent of the total funds appropriated to the Foundation in any single fiscal year.

H. Res. 982, the rule under which the legislation was considered, was adopted earlier by a voice vote.

Pages 21510-21523

Quorum Call and Record Votes: One quorum call and two record votes developed during the proceedings of the House and they appear on pages 21494, 21508-21509, and 21509.

Program for Wednesday: Adjourned at 4:58 p.m. until Wednesday, September 14, 1966, at 12 o'clock noon, when the House will consider H.R. 17637, the Military Construction Appropriation Act for fiscal year 1967; H.R. 11555, the Chamizal Memorial Highway (open rule—1 hour of debate); and H.R. 14604, authorizing a study for a Capitol Visitors' Center (open rule—1 hour of debate).

Committee Meetings

RURAL ELECTRIFICATION ACT

Committee on Agriculture: Subcommittee on Conservation and Credit held a hearing on title VI of Committee Print No. 3 on H.R. 14837, to establish REA electrification and telephone loan accounts and Federal banks for rural electric and rural telephone systems to provide supplemental financing for the rural electrification and rural telephone programs. Testimony was heard from public witnesses.

HIGH SCHOOL FOR THE DEAF

Committee on Education and Labor: Ad Hoc Subcommittee on the Handicapped held a hearing on H.R.

17190, to authorize the establishment and operation by Gallaudet College of a model secondary school for the deaf to serve the National Capital region. Testimony was heard from public witnesses.

COMMUNICATIONS SATELLITE

Committee on Government Operations: Subcommittee on Military Operations continued hearings on Government use of the communications satellite. Testimony was heard from public witnesses.

FAIR PACKAGING AND LABELING

Committee on Interstate and Foreign Commerce: Met in executive session and voted to table H.R. 15440, to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce.

COPYRIGHT LAW REVISION

Committee on the Judiciary: Subcommittee No. 3 met in executive session and continued on H.R. 4347, regarding copyright law revision. No final action was taken.

INVESTMENT CREDIT

Committee on Ways and Means: Continued hearings on H.R. 17607, to temporarily suspend the investment credit and the application of accelerated depreciation. Testimony was heard from Henry H. Fowler, Secretary of the Treasury; John T. Connor, Secretary of Commerce; and Charles L. Schultze, Director, Bureau of the Budget.

BILLS SIGNED BY THE PRESIDENT

New Laws

(For last listing of public laws, see DIGEST, p. D867, September 12, 1966)

S. 3105, fiscal 1967 authorizations for military construction. Signed September 12, 1966 (P.L. 89-568).

H.R. 15858, authorizing acquisition of certain D.C. land as a site for replacement of Shaw Junior High School. Signed September 12, 1966 (P.L. 89-569).

H.R. 4665, allowing an increased tax deduction for mining exploration expenses. Signed September 12, 1966 (P.L. 89-570).

H.R. 3999, giving district judges for the district of Puerto Rico the same tenure of office and retirement rights as other U.S. district judges. Signed September 12, 1966 (P.L. 89-571).

S. 3418, to amend in several respects the Peace Corps Act, and to authorize funds for the Peace Corps program for fiscal year 1967. Signed September 13, 1966 (P.L. 89-572).

Next meeting of the SENATE

11:00 a.m., Wednesday, September 14

Next meeting of the HOUSE OF REPRESENTATIVES

12:00 noon, Wednesday, September 14

**COMMITTEE MEETINGS FOR WEDNESDAY,
SEPTEMBER 14***(All meetings are open unless otherwise designated)***Senate**

Committee on Foreign Relations, on nominations, including those of Reynold E. Carlson, to be Ambassador to Colombia, Glenn W. Ferguson, to be Ambassador to the Republic of Kenya, and Robinson McIlvaine, to be Ambassador to the Republic of Guinea, followed by executive session to consider these and other nominations, including those of Robert Bowie, to be Counselor to the State Department, and J. Robert Schaetzel, to be U.S. Representative to the European Communities, 10 a.m., room S-116, Capitol.

Committee on the Judiciary, executive, on committee business, 10:30 a.m., 2300 New Senate Office Building.

Subcommittee on Administrative Practice and Procedure, to resume its hearings on wiretapping and eavesdropping, 10 a.m., 3110 New Senate Office Building.

Committee on Labor and Public Welfare, executive, on S. 3164, poverty bill, pending veterans bills and on nominations, 10 a.m., 4232 New Senate Office Building.

Committee on Rules and Administration, executive, on committee business, 10 a.m., 301 Old Senate Office Building.

House

Committee on Agriculture, Subcommittee on Conservation and Credit, to continue consideration of title 6 of Committee Print No. 3 on H.R. 14837, to establish REA electrification and telephone loan accounts and Federal banks for rural electric and rural telephone systems to provide supplemental financing for the rural electrification and rural telephone programs, 10 a.m., 1301 Longworth House Office Building.

Committee on Appropriations, Subcommittee on State, Justice, Commerce, and Judiciary, executive, 1 p.m., H-310 U.S. Capitol Building.

Committee on Banking and Currency, executive, on pending legislation, 10 a.m., 2128 Rayburn House Office Building.

Committee on Education and Labor, Ad Hoc Subcommittee on the Handicapped, to continue consideration of H.R. 17190, to authorize the establishment and operation by Gallaudet College of a model secondary school for the deaf to serve the National Capital region, 10 a.m., 2257 Rayburn House Office Building.

General Subcommittee on Education, executive, to continue consideration of H.R. 8481, to amend the National School Lunch Act; and H.R. 15444, to amend the Vocational Education Act of 1966, 9:30 a.m., B-345-D Rayburn House Office Building.

Special Subcommittee on Labor, to consider H.R. 14354, to amend the National Labor Relations Act to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, 10 a.m., 2201 Rayburn House Office Building.

Committee on Foreign Affairs, Subcommittee on Africa, executive, to meet with the Deputy Prime Minister of Bechuanaland, 2:30 p.m., H-227 U.S. Capitol Building.

Committee on Government Operations, Subcommittee on Military Operations, to continue consideration of the Government use of the communications satellite, 10 a.m., 2247 Rayburn House Office Building.

Committee on Interior and Insular Affairs, to continue consideration of S. 1607, to establish the Point Reyes National Seashore in California; and S. 3460, to authorize the Secretary of the Interior to enter into contracts for scientific and technological research, 9:45 a.m., 1324 Longworth House Office Building.

Committee on the Judiciary, Subcommittee No. 1, on private immigration bills, 10 a.m., 2141 Rayburn House Office Building.

Subcommittee No. 2, executive, on pending legislation, 10 a.m., 2226 Rayburn House Office Building.

Subcommittee No. 3, executive, to continue consideration of H.R. 4347, regarding copyright law revision, 10 a.m., 2237 Rayburn House Office Building.

Committee on Ways and Means, to continue consideration of H.R. 17607, to temporarily suspend the investment credit and the application of accelerated depreciation, 10 a.m., committee room, Longworth House Office Building.

Joint Committees

Joint Committee on Atomic Energy, on proposal authorizing AEC participation in combined nuclear-powered water desalting project, to hear AEC and Interior Department witnesses, 2 p.m., room AE-1, Capitol.

Conferees, executive, on H.R. 14929, Food for Peace, and S. 3467, school lunch, 10 a.m., room S-128, Capitol.

Conferees, executive, on S. 2393, authorizing additional GS-16, 17, and 18 positions for new agencies and expanded functions, 3 p.m., room EF-100, Capitol.

**Congressional Record**

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Issued Sept. 23, 1966
For actions of Sept. 22, 1966
89th-2nd; No. 161

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HIGHLIGHTS: Senate agreed to conference report on bill to authorize additional supergrade positions. Senate committee reported bills to revise Seed Act and authorize holding of prepayments on FHA loans. Senate committees voted to report poverty and Transportation Dept. bills. House subcommittee approved bill providing adjustment of Defense milk contracts when USDA orders prices raised. House committees voted to report packaging and labeling and disaster relief bills.

SENATE

1. SUPERGRADES. Agreed to the conference report on S. 2393, to authorize 300 additional positions at GS-16, 17, and 18. This bill will now be sent to the President. pp. 22693-4
2. LABOR-HEW APPROPRIATION BILL. The Appropriations Committee reported with amendments this bill, H. R. 14745, which is to be debated Mon. (S. Rept. 1631). p. 22676

3. LOANS. The Agriculture and Forestry Committee reported without amendment H. R. 15510, to authorize the Department to hold prepayments made by insured-loan borrowers and transmit them to the holders of the notes in installments as they become due (S. Rept. 1633). p. 22676
Sen. Eastland commended the program for FHA loans and grants for water supply and waste disposal. p. 22707
4. SEED. The Agriculture and Forestry Committee reported with amendments H. R. 15662, to revise the Federal Seed Act (S. Rept. 1632). p. 22676
5. TAXATION. Sen. Proxmire claimed the proposed investment-credit suspension would take \$100 million annually out of the pockets of farmers. p. 22690
6. PERSONNEL; EXPENDITURES. Sen. Williams, Del., criticized "excessive" Federal employment and said the freeze at present levels is an "insult to the intelligence of ...taxpayers." pp. 22696-7
7. CHILD NUTRITION. Sen. Proxmire commended action on the child nutrition bill. p. 22720
8. CORN. Sen. Miller commended the work of the Corn Refiners Association, Inc. pp. 22725-6
9. TARIFFS. Sen. Smathers gave a situation report on Kennedy Round tariff negotiations. pp. 22727-31
10. SEA-GRANT COLLEGES. Conferees were appointed on H. R. 16559, to authorize sea-grant colleges. House conferees have been appointed. p. 22748
11. BUILDINGS. Received from GSA a proposed bill "to amend the Public Buildings Act"; to Public Works Committee. p. 22676
12. EXPOSITION. The Foreign Relations Committee voted to report (but did not actually report) H. R. 15098, to provide for U. S. participation in the HemisFair 1968 Exposition, to be held in San Antonio. pp. D907-8
13. TRANSPORTATION. The Government Operations Committee voted to report (but did not actually report) S. 3010, to create a Department of Transportation. p. D908
14. POVERTY. The Labor and Public Welfare Committee voted to report (but did not actually report) S. 3164, to amend the Economic Opportunity Act. As approved, the bill would authorize \$2.496 billion for the fiscal year 1967. p. D908
15. ADJOURNED until Mon., Sept. 26. p. 22748

HOUSE

16. MILK PRICES. A subcommittee of the Armed Services Committee approved for full committee action H. R. 17500, amended, to provide for price adjustments in contracts for procurement of milk by the Department of Defense. p. D909
17. PACKAGING AND LABELING. The Interstate and Foreign Commerce Committee voted to report (but did not actually report) H. R. 15440, amended, to prevent the use of unfair or deceptive methods of packaging or labeling of certain consumer

commodities. p. D910

Rep. May criticized the packaging and labeling bill and inserted an article which, she stated, "shows that packagers are opposed to this bill" because "it will increase the price consumers pay for packaged goods and that it will decrease consumer choice in the marketplace." pp. 22770-1

18. DISASTER RELIEF. The Public Works Committee voted to report (but did not actually report) S. 1681, the disaster relief bill. p. D910
19. INTERGOVERNMENTAL RELATIONS. The Government Operations Committee reported with amendment H. R. 15335, to amend the act to establish an Advisory Commission on Intergovernmental Relations (H. Rept. 2065). p. 22797
20. RECREATION. The Interior and Insular Affairs Committee reported with amendment S. 1607, to establish the Point Reyes National Seashore, Calif. (H. Rept. 2067). p. 22798
21. RESEARCH. The Interior and Insular Affairs Committee reported with amendment S. 3460, to authorize the Secretary of the Interior to enter into contracts for scientific and technological research (H. Rept. 2068). p. 22798
22. APPROPRIATIONS. Authorized consideration of an appropriation-continuing resolution any time next week. pp. 22750-1
23. FLOOD CONTROL. Passed as reported H. R. 13825, to authorize an agreement for the joint construction by the U. S. and Mexico of an international flood control project for the Tijuana River. pp. 22760-65
24. BANKING. The Banking and Currency Committee voted to report (but did not actually report) H. R. 17899, amended, to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loan associations "in lieu of S. 3158" (p. D909), and the committee was granted until midnight Sept. 24 to file a report (p. 22752).
25. WATER POLLUTION. The Rules Committee "granted an open rule" on H. R. 16076, the Water Pollution Act amendments. p. D910
26. DEMONSTRATION CITIES. The Rules Committee "granted an open rule" on S. 3708, the demonstration cities bill. p. D910
27. TAXATION. The Ways and Means Committee voted to report (but did not actually report) H. R. 17607, to temporarily suspend the investment credit and the application of accelerated depreciation. p. D910
28. CORN. Reps. Michel and Findley commended the policy statement of the Corn Refiners Ass'n. pp. 22752, 22774
29. LEGISLATIVE PROGRAM. Rep. Boggs announced that next week the House will consider the Economic Opportunity Act amendments, the investment credit suspension bill, and the Water Pollution Act amendments. p. 22765
30. ADJOURNED until Mon., Sept. 26. pp. 22765-6

ITEMS IN APPENDIX

31. WATER POLLUTION. Rep. Blatnik inserted Sen. Moss' speech, "You Can't Dilute Our Water Problems." pp. A4901-3
Rep. Stalbaum inserted Sen. Nelson's speech describing provisions of his proposed bills on water pollution. pp. A4906-7
Extension of remarks of Rep. Smith, N. Y., stating that water has become a great national problem and inserting excerpts from the Worthington Report, "Water." pp. A4940-2
32. EXPENDITURES. Extension of remarks of Rep. Pelly objecting to "excessive domestic Government spending." p. A4904
33. FARM PRICES. Extension of remarks of Rep. Quie stating that "earlier this year the Administration unfairly tried to pin the blame for mounting inflation on the farm segment of the economy. How false this charge was has since been exposed." p. A4904
34. CORN. Extension of remarks of Rep. Schmidhauser lauding the Corn Refiners Ass' research program. p. A4916
35. REORGANIZATION. Rep. Brooks inserted his remarks before a panel discussion on the proposed reorganization of the Congress. pp. A4916-7
36. POVERTY. Extension of remarks of Rep. Fisher criticizing welfare "handouts" and the alleged misuse of food stamps by recipients. pp. A4927-9
37. CONGRESSIONAL ACCOMPLISHMENTS. Extension of remarks of Rep. Collier reporting to his constituents on the accomplishments of the 89th Congress. pp. A4934-6
38. FOOD FOR INDIA. Extension of remarks of Rep. Matsunaga stating that "agricultural technology is hopefully on the threshold of helping to meet India's critical shortage of food", and inserting an article on this subject. p. A4937

BILLS INTRODUCED

39. WATER POLLUTION. H. R. 17915 by Rep. Dingell, to consolidate water quality management and pollution control authorities and functions in the Federal Water Pollution Control Administration; to Government Operations Committee.
40. FARM LABOR. H. R. 17926 by Rep. Gonzalez, to encourage the States to extend coverage under their State unemployment compensation laws to agricultural labor; to Ways and Means Committee.
41. DISASTER RELIEF. H. R. 17930 by Rep. McDowell, to provide additional assistance for areas suffering a major disaster; to Public Works Committee.
42. RECREATION. H. R. 17933 by Rep. Stalbaum, to preserve, protect, develop, restore, and make accessible the lake areas of the Nation by establishing a national lake areas system and authorizing programs of lake and lake areas research; to Interior and Insular Affairs Committee. Remarks of author pp. 22751-

House of Representatives

Chamber Action

Bills Introduced: 36 public bills, H.R. 17911-17946; 7 private bills, H.R. 17947-17953; and 3 resolutions, H. Con. Res. 1016 and 1017, and H. Res. 1021, were introduced.

Pages 22798-22799

Bills Reported: Reports were filed as follows:

H.R. 15335, amending the act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations," approved September 24, 1959, amended (H. Rept. 2065);

H.R. 11543, regarding three vested German paintings (H. Rept. 2066);

S. 1607, regarding the Point Reyes National Seashore, Calif., amended (H. Rept. 2067); and

S. 3460, regarding the interior research contracts, amended (H. Rept. 2068).

Pages 22797-22798

Continuing Appropriations: The House granted permission that at any time next week a joint resolution may be brought up making continuing appropriations.

Pages 22750-22751

Chamizal Memorial Highway: The House passed by a voice vote H.R. 11555, to provide a border highway along the U.S. bank of the Rio Grande in connection with the settlement of the Chamizal boundary dispute between the United States and Mexico.

Rejected a recommittal motion providing that the city of El Paso should pay 50 percent of the cost of the highway and to reduce the amount appropriated by the U.S. Treasury from \$12 million to \$8 million, by a record vote of 149 yeas to 199 nays.

Adopted committee amendments and rejected an amendment identical to the recommittal motion.

H. Res. 976, the rule under which the legislation was considered, was adopted on September 12, 1966, by a record vote of 202 yeas to 48 nays.

Pages 22753-22760

Tijuana River Project: By a record vote of 293 yeas to 42 nays the House passed H.R. 13825, to authorize the conclusion of an agreement for the joint construction by the United States and Mexico of an international flood control project for the Tijuana River in accordance with the provisions of the treaty of February 3, 1944, with Mexico.

This passage was subsequently vacated, and S. 2540 was passed in lieu after being amended to contain the House-passed language.

H. Res. 1066, the rule under which the legislation was considered, was adopted earlier by a voice vote.

Pages 22760-22765

Late Reports: The Committee on Interstate and Foreign Commerce was granted permission to file a report by midnight, Friday, September 23; the Committee on

Rules was granted permission to file a report by midnight, Friday, September 23; the Committee on Agriculture was granted permission to file a report by midnight Friday, September 23; and the Committee on Banking and Currency was granted permission to file a report by midnight Saturday, September 24.

Pages 22752, 22765, 22766, 22769

Legislative Program: The legislative program for the week of September 26-October 1 was announced by the acting majority leader. Agreed to House adjournment from Thursday to Monday.

Page 22765

Calendar Wednesday: Agreed to dispense with Calendar Wednesday business of September 28.

Page 22766

Referrals: Six Senate-passed measures were referred to the appropriate committees.

Page 22797

Quorum Call and Record Votes: One quorum call and two record votes developed during the proceedings of the House and they appear on pages 22752, 22759-22760, 22764-22765.

Program for Monday: Adjourned at 3:47 p.m. until Monday, September 26, 1966, at 12 o'clock noon, District Day (no bills), when the House will consider H.R. 15111, the Economic Opportunity Act amendments (open rule—8 hours of debate).

Committee Meetings

MILK PRICES

Committee on Armed Services: Subcommittee No. 3 met in executive session and approved for full committee action H.R. 17500 (amended), to provide for price adjustments in contracts for the procurement of milk by the Department of Defense.

Prior to the executive session the subcommittee continued hearings on the bill. Testimony was heard from W. G. Sullivan, Deputy Director, Dairy Division, Department of Agriculture; J. Edward Welch, Deputy General Counsel, GAO; and Dale R. Babione, Deputy Executive Director, Procurement and Production, Defense Supply Agency.

FINANCIAL INSTITUTION SUPERVISORY ACT

Committee on Banking and Currency: Met in executive session and ordered reported favorably to the House H.R. 17899 (amended), to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loan associations, in lieu of S. 3158.

Prior to the executive session, the committee continued hearings on the bill. Testimony was heard from public witnesses.

COMMITTEE BUSINESS

Committee on Education and Labor: Met in executive session and voted to amend the existing committee rules.

FAIR PACKAGING AND LABELING

Committee on Interstate and Foreign Commerce: Met in executive session and ordered reported favorably to the House H.R. 15440 (amended), to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce.

PRIVATE CLAIMS

Committee on the Judiciary: Subcommittee No. 2 heard testimony on private claims bills.

BANKRUPTCY

Committee on the Judiciary: Subcommittee No. 4 met in executive session and approved for full committee action the following bills:

H.R. 291 (amended), to amend sections 64a, 238, 378, and 483 of the Bankruptcy Act and to repeal sections 354 and 459 of the act;

H.R. 293 (amended), to amend sections 337 and 338 of the Bankruptcy Act and to add new section 339;

H.R. 5646, to amend sections 334, 355, 367, and 369 of the Bankruptcy Act; and

H.R. 15699, relating to national observances and holidays.

MARITIME EDUCATION AND TRAINING

Committee on Merchant Marine and Fisheries: Special Subcommittee on Maritime Education and Training continued hearings on maritime education and training. Testimony was heard from Rear Adm. Edward A. Rogers, of the Maine Maritime Academy; and James F. Collins, Deputy Acting Assistant Secretary, Domestic and International Business, Department of Commerce.

DISASTER RELIEF ACT

Committee on Public Works: Met in executive session and ordered reported favorably to the House S. 1861 (amended), the Disaster Relief Act.

ATOMIC ENERGY ACT

Committee on Rules: Granted an open rule, with 1 hour of debate and waiving points of order against H.R. 17685, to amend the Atomic Energy Act. Testimony was heard from Representatives Holifield and Hosmer.

WATER POLLUTION ACT

Committee on Rules: Granted an open rule with 2 hours of debate on H.R. 16076, the Water Pollution Act amendments. Testimony was heard from Representatives Blatnik, Jones of Alabama, Cramer, and Don H. Clausen.

INDIANA DUNES NATIONAL LAKESHORE

Committee on Rules: Granted an open rule with 2 hours of debate on H.R. 51, regarding the Indiana Dunes National Lakeshore.

SCHOOL ASSISTANCE

Committee on Rules: Granted an open rule with 4 hours of debate on H.R. 13161, the elementary and secondary school bill.

DEMONSTRATION CITIES BILL

Committee on Rules: Granted an open rule with 6 hours of debate and waiving points of order on S. 3708, the demonstration cities bill.

WOLF TRAP FARM

Committee on Rules: Granted an open rule with 1 hour of debate on S. 3423, to establish the Wolf Trap Farm Park.

SCHOOL DESEGREGATION

Committee on Rules: Held a hearing and carried a motion to reconsider H. Res. 826, to create a select committee to investigate the Commissioner of Education's policies and guidelines on school desegregation. No final action was taken.

STANDARDS

Committee on Science and Astronautics: Ad Hoc Subcommittee on H.R. 17424, continued hearings on H.R. 17424, to promote and support representation of U.S. interests in voluntary international commercial standards activities and to establish a clearinghouse for commercial and procurement standards. Testimony was heard from public witnesses.

INVESTMENT CREDIT

Committee on Ways and Means: Met in executive session and ordered reported favorably to the House H.R. 17607, to temporarily suspend the investment credit and the application of accelerated depreciation.

Joint Committee Meetings

RADIATION EXPOSURE RECORDS

Joint Committee on Atomic Energy: Committee continued its hearings on S. 3722 and H.R. 16920, providing financial assistance to States participating in a radiation exposure records system, receiving testimony from Dr. Anpolin Raventos, American College of Radiology; Leslie Wilson, American Society of Radiologic Technologists; Dr. James W. Thomas, American Association of Physicists in Medicine; Kenneth R. Osborne, Manufacturing Chemists Association; Dr. Charles D. Harrington, Douglas United Nuclear, Inc.; and Dr. Lauriston S. Taylor, National Council on Radiation Protection & Measurements, and Health Physics Society.

Hearings were recessed subject to call.

This bill is substantially the same as the amendment to title V of the 1966 civil rights bill offered by the gentleman from Florida [Mr. CRAMER] and adopted by the House.

There are sufficient indications, Mr. Speaker, that professional, outside agitators have traveled interstate for the purpose of inciting to riot.

The weapons that have been used during riots—firearms and Molotov cocktails—and the tactics employed to utilize these weapons to greatest effect suggest that there are people conducting guerilla training. And these weapons and sniper tactics have been utilized in similar ways in different cities where riots have occurred.

But the factor which renders Federal anti-riot legislation even more urgent is the evident willingness of thousands of individuals in our cities who respect neither persons nor property to become part of a mob, to cast off all fear of legal consequences by submergence in the mob, and to express their frustration and hostility through the action of the mob.

The most appalling revelation of the riots which have occurred during the past three summers is the propensity of large numbers of people in cities toward violent, mass action.

It is our duty as legislators to see, Mr. Speaker, that this propensity toward violent, mass action constitutes a standing invitation to the professional agitator and demagog who knows how to exploit hostility and to weld people together into a mass.

Riots have not been limited to one city or to one section of the country. Riots have been nationwide—they have hit Los Angeles and Chicago and New York and Atlanta. And there is every reason to believe that agitators and demagogues are prepared to exploit the propensity to violent, mass action on a nationwide scale.

Our cities and States have primary responsibility for protection of persons and property. But we are confronted with a nationwide threat to public order, and it is imperative that Congress exercise its powers under the interstate commerce clause to forestall those who would reduce our country to a shambles for their own power and glory or who would substitute violence and destruction for constructive action in the necessary effort to obtain constitutional guarantees and racial harmony.

WELCOME TO TWO GREEK ARTISTS

(Mr. O'HARA of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'HARA of Illinois. Mr. Speaker, it is a privilege and pleasure to welcome to the United States as permanent residents two renowned artists who give vitality, warmth, and dramatic meaning to the cultural bonds that unite the ancient democracy of Greece with our Nation, so much younger but which today is the defender of democracy throughout the world.

Manolis Hiotis and Mary Linda Hiotis are outstanding masters of the music of

modern Greece, whose fame has penetrated all the countries of Europe, and whose coming to our shores to share their lot with ours is an event not only to our countrymen and countrywomen of Greek birth or descent but to all Americans dedicated to the building of our cultural treasury.

Manolis Hiotis was born in the year 1921 in Nafplion, Greece, and has devoted his life to music. He is the composer of modern Greek songs, both the poetic lyrics and the vibrant music. His songs have been recorded on many labels that are internationally distributed. He has held executive posts with recording companies and is the President of the Musicians and Composers Union or Society of the Country of Greece.

Together with his wife, he has performed the lead role in over 30 major motion picture films. Since the age of 17, he has performed throughout Greece, Egypt, Turkey, Europe, and the United States as well. A screen and theater personality, he has starred on radio and television, and is acknowledged as the father and the master of the typically Greek instrument, the "Bouzouki." He is a foremost recording star of Greece and the Mediterranean and has recorded over 1,000 popular, "hit-records", all of which constitute for the country of Greece, the equivalent of our "Million-Copy" recordings.

His wife, Mary Linda Hiotis, is in her own right a star of music, motion pictures, theater, and television. She was born in Pyrgos, Greece, and has lived in the city of Athens where she attended school and at the age of 8, performed at the prominent Athenian Theater, "The Alcazar Theater." From the age of 8 to 18 while she attended the school of music during the day, she would in the evening appear and perform in the theater.

In school, she studied both classical and modern music and dancing and at the age of 18, she became the performing partner of Manolis Hiotis, who was destined later to become her husband. She as a duet with Manolis Hiotis has recorded over 1,000 popular "hit" songs of modern Greece.

In the year 1962, in the international "Festival of Greek Songs" which took place in Athens, she sang the newly composed song, "Apagogi" which then became an outstanding success throughout Greece and the Mediterranean and was awarded the first prize. Prior to 1962, she similarly performed in the "Athenian Festival" again in an international competition, where for her appearance and singing of the Greek song, "Athena Kori Tou Ouranou", which translated means Athens, daughter of the sky, she again received the first prize. She has performed in Greece, Turkey, Egypt, Europe, and throughout the United States.

In the country of Greece, she has performed in every outstanding theater and every prominent night club. In motion pictures, she has starred with Manolis Hiotis in over 25 motion pictures.

All in all, Mary Linda Hiotis has recorded over 600 popular "hit" songs. I know that I speak for all of my constituents of Greek descent, of music lovers everywhere and for many of my

colleagues when I say, "Congratulations to Manolis Hiotis and to Mary Linda Hiotis" on being granted their permanent residency and a sincere and most heartfelt welcome to the United States of America. They both possess exceptional and rare qualities and will advance the national cultural interests of the United States.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tomorrow night to file a report.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CORRECTION OF ROLL CALL

Mr. KUPFERMAN. Mr. Speaker, on rollcall No. 192, on August 1, 1966, a quorum call, I am recorded as absent. I was present and answered to my name. I ask unanimous consent that the permanent Record and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

BULGARIAN NATIONAL MEMORIAL DAY

(Mrs. BOLTON (at the request of Mr. McCLORY) was granted permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. BOLTON. Mr. Speaker, free Bulgarian people all around the world will tomorrow celebrate their National Memorial Day and commemorate the death of a great hero, Nikola Petkov, at the hand of Communists.

On the morning of September 23, 1947, Petkov was secretly executed by Communists who had seized the Government through treachery. Because they feared the wrath of the people, he was killed at an unusual hour, after turning down a last chance to sign a petition in which he declared his "repentance."

When the Nazis were driven out of Bulgaria, Nikola Petkov and other Bulgarian patriots had taken part in the first coalition government. Petkov and others fought relentlessly against Communist violence and duplicity. Eventually he was charged with conspiracy against the Communist state and the Soviet Union. They called him an agent of Anglo-American capitalism.

Since his death September 23 has become a national memorial occasion. Each year free Bulgarians meet in memory of those who lost their lives struggling for the freedom of their country and renew their dedication to restore liberty and independence to their country. It is a privilege to pay tribute to these courageous people and to join in the hope that the day of freedom lies close at hand for captive Bulgaria.

SURVEY SHOWS PACKAGING BILL WOULD BOOST FOOD PRICES

(Mrs. MAY (at the request of Mr. McClORY) was granted permission to extend her remarks at this point in the RECORD and to include extraneous matter).

Mrs. MAY. Mr. Speaker, as I have contended, the proposed Federal packaging legislation which passed the Senate and has been the subject of extensive hearings in the House Committee on Interstate and Foreign Commerce, would result in higher food prices in exchange for very little benefit.

My colleagues, I feel, will be interested in a survey just completed by Modern Packaging magazine, which shows that packagers are opposed to this bill on a number of practical grounds—not the least of which are that it will increase the price consumers pay for packaged goods and that it will decrease consumer choice in the marketplace.

Since I believe this article might well be studied by every Member of Congress, I have asked unanimous consent that it be reprinted at the conclusion of my remarks.

It should be noted that industry—packagers and their suppliers—has already expressed its willingness to clarify any potential areas of consumer deception. This is most evident in the new model State regulation, which was developed by the National Conference on Weights and Measures with the full and enthusiastic participation of the packaging field.

This regulation, which is in force in many States and therefore is binding on any packager which deals in interstate commerce, constitutes the first nationally uniform and nationally enforceable definition of "clear and conspicuous" labeling. It includes a specific table of type sizes for the net-weight statement in relation to the main-panel area of a package, and it provides for definite contrast of the contents statement with the label background. Complaints about illegibility of the contents declaration have constituted the bulk of the "deceptive-packaging" problem. I feel that the model State regulation—together with adequate enforcement of existing Federal law—obviates any need for further Federal legislation.

The following, Mr. Speaker, is the article referred to in the October issue of Modern Packaging magazine:

HART BILL: A 'VETO' BY PACKAGERS

(As House hearings proceed, a national survey by Modern Packaging reveals bitter conviction among packagers that pending Federal control would result in higher prices and a sharp cutback in competition.)

The marathon "Fair Packaging & Labeling Act" still is being debated in the U.S. House of Representatives as Modern Packaging goes to press. The prospect of it becoming law this year is uncertain, although Administration backing of "consumer-protective" measures indicates that some form of new packaging legislation is likely.

But there's nothing equivocal about industry opinions of the so-called "Truth in Packaging" bill recently passed by the Senate. In a heavy response to a nationwide mail-questionnaire survey by Modern Packaging, consumer-goods packagers and indus-

try associations are virtually unanimous in attacking the measure as unwarranted Federal control of private enterprise and as a device that would defeat the very purpose it is ostensibly designed to serve: helping consumers make a more rational choice at the point of purchase.

A scant 3 percent of the respondents to our survey say the bill would benefit supermarket shoppers. By contrast, 74 percent say it would lead to higher retail prices, 69 percent say it would limit the variety of products and package sizes available to consumers, 49 percent say it would hamstring packaging innovation and 37 percent say it would reduce competition by driving out of business small companies which depend largely on unique packaging or by eliminating product or package lines which serve a statistically small—but nonetheless significant—minority of consumers (see table on this page).

CONTROL BEGETS CONTROL

Fear that the looming Federal packaging law would serve as the springboard to even ney Dickens has this warning: "We view this as an overwhelming majority (89 percent) of respondents.

W. H. Frey, president of the Puritan Chemical Co., raps the measure as "simply another extension—and a needless one at that—of the Federal Government's power in regulating business." Veteran designer Robert Sidney Dickens has this warning: "We view this bill as the foot in the door. The foot gets bigger and the door opens wider; therein lies the danger." He echoes the feelings of packager respondents by adding that, "in virtually all cases, present laws cover what the Hart Bill re-covers."

Our survey reveals that packagers are gravely concerned about the dangers inherent in Section 5(c) of the Senate-passed bill, which grants to the Food & Drug Administration and the Federal Trade Commission discretionary authority to promulgate regulations establishing package-size and serving standards, controlling "cents-off" labeling and requiring full disclosure of ingredients on the label.

Even the small minority of respondents who say that there is a need for rectification in these areas point out that legal machinery to achieve it already exists, and that a new law would be needless duplication.

The viewpoint of the majority of packagers is summed up by F. T. Pickerell, marketing coordinator of the Rexall Drug Co.: "Granting Federal agencies further power to regulate without controls from an objective source is frightening. Under the most strict application of uniformity, the tea bag would never have been introduced, unit packaging would be unheard of and millions of dollars in new business would not have been generated."

Development of standards by Federal agencies, says Milan D. Smith, executive vice president of the National Canners Assn., "would retard innovation and imagination in the development and marketing of grocery products, and add measurably to the prices paid by consumers." An anonymous food packager warns that "to empower regulatory agencies to establish package-size standards would ultimately subject the consumer to drab uniformity and would stifle competition."

"VOLUNTARY" RULES: THE ARMY GAME

A subsection which would provide for the voluntary development of such standards by industry under Government supervision is disapproved by a whopping 97 percent of the respondents to our survey. Industry's feelings are capsulized by E. Scott Pattison, manager of the Soap & Detergent Assn.: "The provisions for industry development of 'voluntary' standards do not really permit such freedom—except as it is possible to volunteer the day before you are drafted."

An equally strong reaction comes from George W. Koch, president of the Grocery Mfrs. of America: "It appears that a Federal agency may propose a rigid and restrictive package-size standard simply on a subjective finding that such action will facilitate price-per-unit comparison. The fact is that unwilling manufacturers may be compelled to abandon a number of established size categories which by sales experience have been shown to represent distinct consumer markets."

Several industry representatives also bring up the interesting point that a wet blanket is thrown over competitive enterprise by the bill's requirement that administrative hearing would be necessary to obtain permission for new container designs, shapes and sizes.

Says Aaron S. Yohalem, senior vice president of the Corn Products Co.: "By the time hearings are completed, with the attendant broadcasting of our ideas, all competitive advantages will have been lost; the traditional benefits of being first would be lost." A similar opinion is expressed by Arthur E. Larkin, Jr., executive vice president of General Foods, which has a long record of packaging innovation. Provisions for standards regulations, he says, "would retard further development of convenience foods and further advances in package design which add important consumer values."

STATE LAW OUTLAWED?

Packagers also are solidly ranked, our survey shows, against a provision of the Fair Packaging & Labeling Act which would "supersede any and all laws of the State" which differ from it with regard to packaging and labeling practices.

No less than 87 percent of the respondents predict that this requirement would wreak costly havoc with present labeling standards, since indications are that Federal rules (not yet established in detail) might differ significantly from those of the recently issued Model Regulation on conspicuous labeling, which was developed with industry cooperation by the National Conference on Weights & Measures. The Model Regulation—which has been adopted by the majority of the states and is binding upon any packager who ships across state lines—is the first official national definition of "clear and conspicuous" labeling and includes a table of type sizes for the contents statement in relation to main-panel area (see MP, Aug. '65, p. 114).

Says E. Jerome Webster, Jr., director of member services of the National Assn. of Frozen Food Packers:

The National Conference has done an outstanding job of developing labeling regulations for the states. The authority which the Hart Bill would vest in Federal agencies to invalidate these laws would be disastrous." Rexall's F. T. Pickerell characterizes the Model State Regulation as "fair to both consumers and packagers; it contains all of the practical provisions asked for by thoughtful consumer groups."

It should be noted that packagers replying to our survey agree in principle with certain sections of the Fair Packaging & Labeling Act. For example, 71 percent agree that the net-weight statement should appear parallel to the base of the facing panel of a container, and 54 percent approve the elimination of qualifying words or phrases (such as "jumbo quart") that tend to exaggerate the amount of product in a package.

But even here, packagers point out that if existing Federal laws were adequately enforced, abusive examples would quickly disappear from retail shelves. And 63 percent of the respondents challenge the measure's provision for an "ounces-only" statement of net weight (except for exact units of pounds, pints or quarts) on the ground that state laws require contents to be stated in basic weight units plus fractions thereof. Most packagers agree that the ounces-only pro-

vision would be more confusing than helpful. "Is '40 oz.' easier to understand than '2½ lbs.?'", asks one respondent.

In view of the furore over "cents-off" labeling promotions, it is interesting that 94 percent of packagers in our survey defend this practice as a legitimate competitive tool which is controlled adequately by present law. A typical comment is this from William R. Tinch, president of Purex Corp.: "These methods of the producer reaching the consumer directly with price reductions are to the consumer's benefit. If they are outlawed, the consumer is hurt. It is as simple as that. And if they are outlawed, the small or new packager will be hurt far worse than the larger producers—a result diametrically opposed to our antitrust history, philosophy and practice."

DON'T CONFUSE ME WITH FACTS

All of the foregoing observations have been made time and again during the past five years by packaging-field representatives testifying before Senate (and now House) committees. Our survey reveals a general resignation by packagers to the fact that packaging and labeling legislation is recognized in Washington as a sure-fire vote-getter, since it gives the impression that lawmakers are going to bat for the burdened consumer. "Political heroism," one packager calls it.

The president of a major packager of dry foods reflects bitterly that "The general attitude in Washington appears to be: 'Don't confuse me with the facts; my mind is already made up.'" R. A. Hickman, manager of the U.S. Government Marketing Department at the Dow Chemical Co., says: "The Fair Packaging & Labeling Act charges industry with crimes that do not exist and therefore cannot be defended." And A. H. Funke, vice president of the P. J. Ritter Co., observes that "If we haven't made a dent in Congress now, I doubt if we will at this late date."

HOUSE HEARINGS: SUMMER RERUN

Meantime, in Washington, the House Committee on Interstate & Foreign Commerce has been holding hearings on the Senate-approved Hart Bill (S. 985) and a companion measure (H.R. 15440) introduced by committee chairman HARLEY O. STAGGERS (D., W. Va.). They dragged on into late August, generating much heat and little light.

It was largely a case of word-weary packaging representatives coming back (some for the third or fourth time) to restate the defenses and pleas for understanding which they had made at earlier hearings. Government officials also made return visits in favor of new legislation.

For all its repetition, the House hearing did have its sparkling moments. Rep. CATHERINE MAY (R., Wash.) attacked the legislation as "legally superfluous, technically inexact and an inflationary time bomb for the American consumer." She said proponents "have obviously tried to exploit what might be described as the average male Congressman's innate terror of organized womanhood."

William C. Battle, president of the Premium Advertising Assn. of America, said the voluntary standards procedures contemplated by the new packaging legislation would be excessively costly to Government and industry and could only be achieved by protracted litigation. A certain result, he added, would be restricted research and development, to the detriment of consumer choice.

The folly of setting package-size standards to facilitate price comparison was illuminated by Harry F. Schroeter, packaging vice president of National Biscuit Co. He pointed out that Nabisco markets 15 varieties of crackers in the same-size carton, even though

product weight varies from 8 to 10½ oz. To package them all at 8 oz., he said, a different packaging line would be needed for each product. "Just one such new line requires an investment in plant and equipment of almost \$400,000 and a building area of approximately 4,800 square feet."

While it is conceivable that an industry giant could support such an investment, said Edward J. Hekman, president of the Keebler Co., smaller companies would almost surely go under. He added: "I am baffled by the fact that legislators who are concerned about the bigness of some businesses have found it reasonable to support legislation which would lessen the chances for survival of smaller ones."

Government officials appearing in support of the bill included (among others) Secretary of Commerce John T. Connor and Mrs. Esther Peterson, special Presidential assistant for consumer affairs. Secretary Connor argued that the measure would help packagers by assuring that all competitors would have to adhere to high packaging and labeling standards. Mrs. Peterson suggested that the bill would enable packagers "to compete on quality and price . . . rather than irrelevant packaging gimmicks."

A further report on the situation will be carried in a forthcoming issue of *Modern Packaging*.

LET US ATTACK POLLUTION AT ITS SOURCE

(Mr. ROBISON (at the request of Mr. McCLODY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROBISON. Mr. Speaker, when Congress passed the Federal Water Pollution Control Act in 1956, it became irreversibly committed to the Herculean task of helping restore America's streams, rivers, and lakes to a level suitable for industrial, agricultural, and recreational use and enjoyment. Congress awakened the country to the imminent dangers and spread of pollution, and activated and stimulated local and State instrumentalities to join with the Federal Government in its attack on the Nation's No. 1 domestic blight. The response to the challenge has been heartening, but the job to be done, the job that must be done, is monumental. For example, it no longer shocks, or awes, or even frightens the Congress to establish, or contemplate establishing, the eventual Federal commitment to the national pollution abatement program at \$5 or \$6 billion.

I am proud to point to my own State of New York—which under enlightened leadership, is in the vanguard among the States in this vital area—whose citizens, painfully aware of the magnitude of their own pollution problem, voted by an overwhelming 4-to-1 majority to spend \$1 billion to return to the people the use of their fresh water resources which are, today, unusable for all too many purposes. Other States are similarly pledging themselves to the restoration of their water resources, and local municipalities have finally given their polluted water the high priority that it must have if we are to eradicate it.

While our pollution abatement efforts to date have been quite encouraging, Mr. Speaker, they simply are not enough.

Our rapidly expanding population and increased industrial and agricultural demand for clean water will place extraordinary burdens on our Nation's total fresh water supply. Since 1900, while our population has tripled, the demand for fresh water has increased eightfold, from 40 billion to 322 billion gallons a day. By 1980, our water needs will be a staggering 600 billion gallons a day, almost twice our present use. Thus the fact that the various levels of government have been spending larger and larger sums of money to clean up our Nation's waterways while not attacking pollution at its source seems, in my judgment, a dangerous gamble, especially in view of our future needs.

By and large the major source of pollution in the United States is industrial pollution. Industrial wastes increased from an equivalent of the sewage discharge of 15 million persons in 1900, to an equivalent of the sewage discharge of 150 million persons in 1960. While municipal sewage discharge increased threefold during those 60 years, industrial sewage discharge increased an amazing tenfold. In 1900, the average daily use of water for industrial purposes was 15 billion gallons. By 1960, it had increased to 159.9 billion gallons per day. By 1980, only 14 years from now, it is estimated to be an amazing 394.2 billion gallons per day.

These staggering statistics give substance to the paradox that the major user of clean water and the major polluter of that water is industry. To be sure, we must rid our waters of the filth that now pollutes them, and we have begun this task quite admirably. But equally as certain, we must actively and positively move to reduce and prevent old and new polluters from accentuating and increasing the burden of present and future abatement facilities.

I hope the bill I am introducing today will be a giant step in providing our Nation's industry with sufficient incentives to construct the necessary pollution control works, thereby making it financially feasible for industry to assume its rightful responsibility in this field. The enormity of the problem involves estimated expenditures by industry in the billions of dollars to construct the sewage treatment works which are required to abate its pollution of America's rivers and streams. We can bring our goal of clean waters to fruition more rapidly if, as I hereby suggest, we give to industry the financial opportunity to build their necessary facilities without heavy financial burdens to them, or later and more indirectly, to the consumer.

We are approaching and confronting the problem of unfit waters in many ways. This is good, and even desirable, for the problem itself is quite complex and enormous—but not, Mr. Speaker, insurmountable. In the first session of this Congress, I introduced legislation that would create a national water resources trust fund within the Treasury, which could be used for water resources research and development. The source of the fund would be the difference between the face value of newly minted

coins and the sum of their intrinsic value and cost of minting. This "profit" which, until now, did not exist to any appreciable extent, will amount to approximately \$2 billion in the next 2 fiscal years due to the removal of silver from our coins, as provided for in the Coinage Act of 1965.

And now, Mr. Speaker, the bill I am introducing today amends the Internal Revenue Code to provide a tax incentive to industry for the construction of waste treatment works. Under the provisions of my bill, every enterprise, at its election, would be entitled to a deduction with respect to the amortization of the adjusted basis of any treatment work over a period of 5 years. This proposal, I feel, is a much more constructive way to prevent industrial pollution of our waters without being detrimental to the industries themselves than most of the proposals that have come to us from the administration.

The proposal I offer today will make this great domestic liability even less complex, reduce its enormity even further, and give to our Nation's growing industry the opportunity of doing its fair share toward realizing the goal—clean waters—prized by all.

THE PRESIDENT'S CLUB

(Mr. RHODES of Arizona (at the request of Mr. McCLORY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RHODES of Arizona. Mr. Speaker, apparently the Johnson-Humphrey administration has decided that the best course to follow regarding the recent disclosures involving the President's Club is to close their eyes, do nothing, and hope that the public will soon forget or at least lose interest until after the coming election. Unfortunately for them, but most fortunately for this country, neither the public nor the press have forgotten. In fact, each day there is new editorial comment regarding this important subject.

For example, in a recent editorial the Christian Science Monitor stated:

The President's Club raises suspicions of influence peddling and corruption, involving the highest office of the land. However reluctant he may be to give up a lucrative source of party income, President Johnson owes it to the people to preside at the dissolution of this club and to do it now.

In an editorial entitled "Let's Kill Off the President's Club," the Chicago Tribune noted:

As with the "Thousand-Dollar Club" of President Truman, to which cronies, five per centers, and fixers kicked in, the Johnson "President's Club" is merely an instrument for selling special favors and contracts. Those who "join" it are led to believe that their financial contribution entitles them to a pipe line to the White House.

And in an editorial entitled "Smoke-Filled President's Club," the St. Louis Globe Democrat pointed out:

As suspicion mounts that the President's Club is a clearing house for influence-peddling, the public has the right to know how much these Democratic party supporters

have contributed, who they are, and to hear their statements, under oath. The smoke from the fire is getting pretty thick.

Mr. Speaker, in view of the seriousness of these charges, the people of the United States have a right to know all the facts regarding the President's Club. To date, the individuals and the administration officials involved have volunteered little or no relevant information. What we must have is a thorough investigation by a select committee that will have the power to subpoena records and question witnesses. I, therefore, join the minority leader, GERALD R. FORD, in calling for the establishment of such a committee. The longer this investigation is delayed, the greater will be the suspicion and distrust. If the special treatment involving contributors to the President's Club is merely a "coincidence," this, in fairness to all concerned, should be clearly established. On the other hand, if, as it now appears, the "coincidences" establish a pattern of favoritism and special treatment, this must be exposed so that steps may be taken to bring any wrongdoers to justice and the laws relating to political contributions may be strengthened.

Mr. Speaker, I would like to enclose at this point in the RECORD copies of pertinent editorials and columns:

[From the Christian Science Monitor, Sept. 13, 1966]

THE PRESIDENT'S CLUB

Campaign financing continues to be the Achilles' heel of American democracy. Election campaigns in the United States are unbelievably expensive. Parties and candidates are forced to think up clever means to raise the vast sums needed to pay for high-cost campaign advertising. They frequently turn for contributions to sources some of which could conceivably stand to gain substantially from government favoritism.

The opportunities for corruption and the consequent suspicion of corruption can be removed. Political scientists believe that, whatever the difficulties, wise and adequate laws relating to campaign financing can be drafted and enforced.

No one would argue that present laws are in the least adequate. President Johnson submitted a bill to Congress proposing a new law. It would help by requiring more disclosure, encouraging gifts by smaller contributors, and closing some of the present loopholes. Still, it is a bare beginning.

At the same time that this bill would help to reduce dependence on the large contributor, Mr. Johnson is using the President's Club as a device to attract to party coffers gifts of \$1,000 or more.

Relying on status appeal, the President's Club has proved to be an unusually successful fund-raising method. And, like the \$1,000-a-plate testimonial dinner and the sale of advertisements in slick political brochures at \$15,000 a page, it raises suspicions of improprieties. Such practices should have no place in politics.

It is not necessary to adopt Theodore Roosevelt's suggestion that the government pay campaign expenses by appropriating funds directly to the parties. Helpful measures could include: voluntary agreements to limit advertising expenditures, tax incentive programs for the small contributor, laws providing for shorter campaigns, the application of campaign contribution laws to primaries and conventions, the establishment of proper accounting methods, and the disclosing and publicizing of actual contributions and expenditures.

The President's Club raises suspicions of influence peddling and corruption, involving the highest office of the land. However reluctant he may be to give up a lucrative source of party income, President Johnson owes it to the people to preside at the dissolution of this club and to do it now.

[From the St. Louis Globe-Democrat, Sept. 7, 1966]

SMOKE-FILLED PRESIDENT'S CLUB

The sensitive nostrils of Republican Congressmen are getting whiffs of smoke which are leading them to an investigation of the political fire ignited by continued reports of contributions to the President's Club.

Membership in the club, presumably a fund-raising organization is open to those who have contributed at least \$1,000 to the Democratic party.

President Johnson was suspect when he recently intervened with Congress seeking restoration of several million dollars which had been cut from Project Mohole, a dubious geological venture into the earth's crust.

The prime contractor and his family had contributed \$25,000 to the President's Club.

Matthew McCloskey, long-time Democratic fund-raiser active in the club, was permitted to change his construction firm's bid on a Philadelphia mint building five days after the bidding deadline. His low bid knocked out three competitors.

An engineering firm with no experience in the field was awarded a Job Corps contract over four established firms after its senior vice president had given \$2,000 to the club.

Just last week some House Republicans disclosed that three engineering firms in California and Texas were recipients of more than \$1,400,000 in contract work for the armed forces.

Is it just coincidence that the firms' officers and their families have contributed at least \$30,500 to the club since 1964?

Since one of the officials is a California leader in the John Birch Society, it is stretching credulity that he donated to the club in the interest of promoting Mr. Johnson's Great Society.

The "preposterous coincidences" as Rep. RUMSFELD of Illinois describes them have prompted House GOP leader GERALD FORD of Michigan to call for a bi-partisan committee investigation.

As suspicion mounts that the President's Club is a clearinghouse for influence-peddling, the public has the right to know how much these Democratic party supporters have contributed, who they are, and to hear their statements, under oath. The smoke from the fire is getting pretty thick.

[From the Chicago Tribune, Sept. 2, 1966]

LET'S KILL OFF THE "PRESIDENT'S CLUB"

The so-called "President's club," consisting of men who have given large sums of money to the Democratic party, has disgraced the Johnson administration just as similar bag operations disgraced previous administrations. It should be disbanded at once.

As with the "Thousand-Dollar club" of President Truman, to which cronies, five per centers, and fixers kicked in, the Johnson "President's club" is merely an instrument for selling special favors and contracts. Those who "join" it are led to believe that their financial contribution entitles them to a pipe line to the White House.

The nation is indebted to Reps. CHARLES E. GOODELL of New York and DONALD RUMSFELD of Illinois, both Republicans, for examples of how the club has worked.

They have told us how a senior vice president of Consolidated American Services, Inc., gave \$3,000 to the club and to the Democratic party and won a million dollar contract in the anti-poverty war; how the family

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Issued Sept. 27, 1966
For actions of Sept. 26, 1966
89th-2nd; No. 162

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¹⁾ HIGHLIGHTS: Conferees reported food-for-freedom bill. House debated poverty bill. House committee reported investment-tax bill, and Rep. Langen asked exemption of farmers. House committees reported packaging-labeling bill, continuing-appropriations measure, and analysis of CCC corn marketing. Senate passed bill to revise Federal Seed Act. Senate passed bill to permit prepayments of FHA loans.

HOUSE

1. FOOD FOR FREEDOM. Received the conference report on H. R. 14929, the food-for-freedom bill (H. Rept. 2075). The conferees changed the short title of the bill to "Food for Peace Act of 1966" instead of "Food for Freedom" as in the House version. However, this does not change the title of the basic legislation, which remains "Agricultural Trade Development and Assistance Act of 1954." pp. 22833-40

2. POVERTY. Began debate on H. R. 15111, to provide for continuation of the war on poverty. pp. 22803-33
3. TAXATION. The Ways and Means Committee reported with amendment H. R. 17607, to suspend the investment credit and the allowance of accelerated depreciation in the case of certain real property (H. Rept. 2087) (p. 22854). Rep. Langen recommended exemption of farmers from this bill (p. 22843).
4. TARIFF. Rep. Curtis inserted a "progress report" on Kennedy round tariff negotiations. pp. 22843-5
5. POLITICAL ACTIVITIES. Rep. Ashbrook gave answers to questions as to actions which Federal employees are permitted to take under the Hatch Political Activities Act. p. 22845
6. DEMONSTRATION CITIES; EDUCATION; WATER POLLUTION. The Rules Committee reported a resolution for consideration of S. 3708, the demonstration cities bill; H. R. 13161, to strengthen and improve education in elementary and secondary schools; and H. R. 16076, to improve and make more effective the Federal Water Pollution Control Act. p. 22854
7. PACKAGING; LABELING. The Interstate and Foreign Commerce Committee reported with amendment H. R. 15440, the fair packaging and labeling bill (H. Rept. 2076). p. 22854
8. BANKING. The Banking and Currency Committee reported with amendment H. R. 17899, to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loans associations, to increase the maximum amount of insured accounts or deposits, etc. (H. Rept. 2077). p. 22854
The Banking and Currency Committee reported S. 1556, to authorize the Federal Reserve Board to delegate certain of its functions (H. Rept. 2079). p. 22854
9. APPROPRIATIONS. The Appropriations Committee reported H. J. Res. 1308, making continuing appropriations for the fiscal year 1967 (H. Rept. 2078). p. 22854
10. CCC CORN. The Small Business Committee submitted a report, "The Effect of Corn Marketing by the Commodity Credit Corporation Upon Small Business" (H. Rept. 2082). p. 22854

SENATE

11. SEEDS. Passed as reported H. R. 15662, to revise the Federal Seed Act. p. 22858
12. LOANS. Passed without amendment H. R. 15510, to authorize the Secretary of Agriculture to hold prepayments made to the Department by insured loan borrowers on Farmers Home Administration loans and transmit them to the holders of the notes in installments. This bill will now be sent to the President. pp. 22858-9
13. LABOR-HEW APPROPRIATION BILL. Began debate on this bill, H. R. 14745. pp. 22857, 22889-902

FAIR PACKAGING AND LABELING ACT

SEPTEMBER 23, 1966.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. STAGGERS, from the the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany H.R. 15440]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 15440) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

That this Act may be cited as the "Fair Packaging and Labeling Act".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities

except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label; and

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) (i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or, in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

(iii) if on a package labeled in terms of linear measure, shall be expressed in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

(iv) if on a package labeled in terms of measure of area, shall be expressed in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(4) For purposes of paragraph (3) (A) (ii) of this subsection, the term "random package" means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: Provided, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug,

device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) require, on the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(4) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and (B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

(5) prevent the nonfunctional-slack-fill of packages containing consumer commodities.

For purposes of paragraph (5) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

(e) If (1) after one year after the date on which the Secretary of Commerce first makes the request of manufacturers, packers, and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purposes of this Act—

(a) The term “consumer commodity”, except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Act of March 4, 1913 (37 Stat. 832–833; 21 U.S.C. 151–157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of section 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1) and 356);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551–1610).

(b) The term “package” means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231–233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234–236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251–256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257–257i).

(c) The term “label” means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term “person” includes any firm, corporation, or association.

(e) The term “commerce” means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term “principal display panel” means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Federal Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on July 1, 1967: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

PURPOSES OF LEGISLATION

The purposes of the legislation, as amended, are to insure that the labels of packaged consumer commodities adequately inform consumers about their contents, and to promote labeling and packaging practices with respect to packaged consumer commodities which will facilitate value comparisons by consumers. A policy declaration to this effect is set forth in section 2 of the bill.

SUMMARY OF LEGISLATION

The committee substitute (which is printed in full at the beginning of this report)—

(1) Directs the Secretary of Health, Education, and Welfare (for food, drugs, devices, and cosmetics) and the Federal Trade Commission (for all other consumer commodities) to promulgate regulations to insure—

(a) That the package label bears the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(b) That the package label bears a separate statement of net quantity of contents, located on the principal display panel, in a uniform location, in adequate contrast, in letters or numerals which bear a proper relationship to the area of the principal display panel, and that the statement be placed generally parallel to the base of the package;

(c) That, in the case of packages containing less than 4 pounds or 1 gallon, the net weight be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in the largest whole unit (pounds, pints, quarts, or as appropriate), with any remainder in terms of ounces or common or decimal fractions of the whole unit. Similar provisions relate to linear and area measures and special provision is made for random-weight packages.

(2) Authorizes the administering agencies to promulgate regulations when necessary to prevent consumer deception or to facilitate value comparisons—

(a) To determine what size packages may be represented by such descriptions as “small,” “medium,” and “large”;

(b) To require that wherever the label on any package refers to "servings," a statement be added of the net quantity of each such "serving" in terms of weight, measure, or numerical count;

(c) To regulate (but not prohibit) the use of such promotions as "cents off" or "economy size" on any package;

(d) To extend to nonfoods the present requirement for the listing, in the order of decreasing predominance, of ingredients contained in any consumer commodity without divulging of any trade secret; and

(e) To prevent nonfunctional slack fill (which term is defined in the legislation to apply to slack fill not necessitated by product protection or automatic machine packaging) of packages containing consumer commodities.

(3) Authorizes the Secretary of Commerce (acting through the National Bureau of Standards) to call upon manufacturers, packers, and distributors of consumer commodities with regard to which he finds there is undue proliferation of weights, measures, or quantities, to develop voluntary product standards for such commodities under procedures established by the Secretary pursuant to the act of March 3, 1901. If within 1 year after such request has been made, the Secretary determines that no voluntary standards are being worked out, or that existing voluntary standards are being violated, he shall promptly report his findings to Congress together with his legislative recommendations.

NEED FOR LEGISLATION

More than 8,000 packages containing different consumer commodities now compete for the consumer's dollar. The packages have replaced the salesman. Therefore, it is urgently required that the information set forth on these packages be sufficiently adequate to apprise the consumer of their contents and to enable the purchaser to make value comparisons among comparable products.

The pattern of this legislation follows other labeling laws enacted in earlier years by the Congress such as, the Fur Products Labeling Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act. During the present Congress this committee reported and the Congress enacted, legislation requiring informative labeling with regard to automobile tires.

The witnesses appearing on behalf of the President's Committee on Consumer Interests, the Department of Health, Education, and Welfare, and the Federal Trade Commission emphasized that at present packages of consumer commodities do not adequately identify the products, describe the quantity of contents, or otherwise provide the necessary information that the consumer must have to make an intelligent buying choice. Although existing law with respect to foods, drugs, devices, and cosmetics requires a statement as to the name of the commodity and the quantity of its content, these provisions are enforced on a case-by-case basis. The interpretative regulations which have been issued in the past have not brought about a clear presentation of this information necessary to the purchaser even where the law requires that this information be conspicuously stated so as to render it likely to be read and understood under cus-

tomary conditions of purchase and use. Manufacturers often have placed this information at various points on the packages with the result that it is difficult for the purchaser to locate and use this information in making value comparisons.

Some manufacturers have adopted the practice of adding qualifying adjectives to the weights and measures on the label such as "jumbo quart" or "giant gallon." This might suggest to many consumers that they are getting more than they are actually getting. The amendment, therefore, prohibits the use of such qualifying adjectives in connection with the statement of weights or measures.

Present law does not require the statement of total ounces which is highly desirable for the computation of cost per ounce. This computation is one of the principal factors in making most buying judgments.

In addition, there have grown up marketing practices under which packages are described as "large," "small," or "family size" without a requirement that these sizes be the same for reasonably comparable articles. The "small" size of one commodity may be the "medium" of another, and often the smallest package on the market is "large."

Many packages contain a statement of servings but the servings made from one package are often but a fraction of the servings made from another.

Consumers generally search for best buys and to satisfy this purchasing desire, the manufacturers have adopted promotions such as "cents-off" and "economy size". Where 100 percent of a manufacturer's output of an article is sold with a "cents-off" on the package, the consumer is being misled into thinking he is getting a special bargain. While occasional price reductions on the part of manufacturers for promotional purposes should be encouraged, deceptive and confusing practices with regard to such promotional activities require the observance of guideline-type regulations.

Existing law with respect to foods requires that the label bear a statement of ingredients. Existing law with respect to drugs requires that the active ingredients be stated on the label (and in some cases all of the ingredients be stated on the label). However, there is no such requirement with respect to cosmetics or other consumer commodities such as detergents. This type of information may become very valuable to the consumer in making value comparisons.

When a consumer buys a nontransparent package containing a consumer commodity, he expects it to be as full as can be reasonably expected. He makes his purchase in many instances on the basis of the size of the box. There are practical justifications for less than a complete fill in many instances. A container has to be large enough to protect the contents and it is necessary to recognize that many consumer packages are prepared by machine operations. Therefore, to the extent that the safety of the product requires additional wrapping and a somewhat larger box and to the extent that machine packing requires that the box be somewhat larger to accommodate the machine closing, slack fill is necessary and justifiable. However, nonfunctional slack fill which involves, for example, the use of false bottoms and/or unnecessary bulky packaging is not justified. The bill would allow the Department of Health, Education, and Welfare and the Federal Trade Commission to prevent abuses of that kind.

PURPOSE OF COMMITTEE AMENDMENTS

Many of the witnesses appearing on behalf of trade associations or individual manufacturing companies objected vigorously to provisions contained in S. 985 and H.R. 15440, as originally introduced, dealing with the promulgation of standards for weights and measures of packages. The arguments advanced against these particular provisions were for the most part based on alleged increased costs to the consumer, where similar products of different densities might be required by regulation to be packaged in different size containers. At the present time it is the practice of industry to package such products in the same container or in a limited number of containers.

The proponents of the legislation agreed that under no circumstances should the standardization of weights and measures of packages lead to any increases in the cost of commodities to the consumer.

The committee felt that instead of vesting broad regulatory authority at the present time in the Department of Health, Education, and Welfare and the FTC, it would be preferable to substitute for the regulatory provisions originally contained in section 5(d) of H.R. 15440 and S. 985 an entirely voluntary procedure. Under this procedure, the Secretary of Commerce is authorized to call upon manufacturers, packers, and distributors of consumer commodities, with regard to which he finds there exists undue proliferation of weights, measures, or quantities, to develop voluntary product standards for such commodities under the procedures established by the Secretary pursuant to the act of March 3, 1901. If within 1 year after such request has been made, the Secretary determines that no voluntary standards are being worked out for such commodity (or that existing voluntary standards are being violated), he shall promptly report his findings to the Congress together with legislative recommendations as to needed regulatory authority to deal with the situation in question.

The committee wishes to make it clear that its intent is to encourage the development of purely voluntary standards. Indeed, it is the committee's hope that manufacturers will take advantage of the Commerce Department's voluntary standard procedure without the necessity of a determination of undue proliferation and a request by the Secretary under subsection 5(d) of the bill. A standard adopted in this manner, without a determination of undue proliferation under subsection 5(d), would not be subject to the provisions of subsection 5(e).

There were relatively few objections raised by industry witnesses against other provisions contained in the bill relating primarily to labeling practices. Such objections as have been raised have been met for the most part by the amendments adopted by the committee. The bill as amended by the committee was ordered reported by a unanimous vote.

COMMITTEE HEARINGS

The committee held 18 days of hearings on the legislation between July 26 and September 8, 1966, in the course of which it received voluminous testimony from Members of Congress, representatives of the Federal departments and agencies concerned, State agencies, labor and consumer organizations, trade associations, and individual companies. All of the Government witnesses who testified, represent-

ing the office of the President and the departments and agencies concerned, testified in support of the legislation or submitted reports in support of it.

PROVISIONS OF THE BILL

The regulatory responsibility under this legislation is divided between the Secretary of Health, Education, and Welfare (with regard to food, drugs, devices, and cosmetics) and the Federal Trade Commission (for all other consumer commodities). This division preserves the historical division of responsibility between the Food and Drug Administration of HEW and the Federal Trade Commission.

In addition, the legislation utilizes the voluntary standards procedures of the National Bureau of Standards of the Department of Commerce in encouraging the voluntary development of weight and quantity standards.

Prohibited acts and enforcements

The bill makes it unlawful for certain specified persons to distribute in commerce packaged consumer commodities which do not comply with any of the regulations promulgated under this legislation. The prohibitions do not apply to common or contract carriers, freight forwarders, or to persons engaged in wholesale or retail distribution, except to the extent that those persons either engage in packaging and labeling consumer commodities or direct how any such commodity is to be packaged or labeled.

The prohibited acts, insofar as they relate to any food, drug, device, or cosmetic, as defined in the Federal Food, Drug, and Cosmetic Act, are to be regulated as misbrandings (resulting in seizure or injunction) under chapter III of the Federal Food, Drug, and Cosmetic Act, but the criminal provisions of that act will have no applicability to any violation of this act.

Violations of this act with respect to all other consumer commodities are declared to be unfair or deceptive acts or practices in commerce and are subject to enforcement (by cease-and-desist order) under section 5 of the Federal Trade Commission Act. In the case of imports, enforcement authority is placed with the Secretary of the Treasury under section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act.

Mandatory labeling provisions

Section 4(a) prohibits the distribution in commerce by specified persons of any packaged consumer commodity unless in conformity with regulations established by the Department of HEW or the FTC, respectively, which shall provide that—

1. The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer or distributor;
2. The net quantity of contents (in terms of weight, measure or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label;
3. The separate label statement of net quantity of contents on any package containing less than 4 pounds or 1 gallon shall be expressed both in ounces (avoirdupois or liquid), and in the largest unit of pounds, pints or quarts, with any remainder in ounces or in common or decimal fractions of the whole unit.

The purpose of this dual requirement is: (1) to continue in effect present practices under both Federal and State laws which require statements of quantities of contents to be in terms of the largest units of the appropriate measure, and (2) to provide a total ounce statement which will facilitate the computation of costs per ounce and thus aid the consumer in making value comparisons among comparable commodities.

Corresponding provisions are set forth with regard to consumer commodities in packages which are labeled in terms of linear or area measure.

Special provisions are contained with regard to random packages which are defined for this purpose as packages of varying weights which are part of a lot shipment or delivery of the same consumer commodity which has no fixed weight pattern. This was done in order to accommodate computerized automatic weighing machines (presently utilized in the case of random packages) which express weight in pounds and decimal fractions thereof.

The quantity of content declarations are required to appear conspicuously and in easily legible type in distinct contrast with other matter on the label. They are required to contain letters or numerals in type size which bears a proper relationship to the area of the principal display panel of the package, and to be uniform for packages of substantially the same size. Finally, they are required to be placed generally parallel to the base of the package as it is designed to be displayed.

Persons are prohibited from adding qualifying words or phrases in conjunction with the separate statement of net quantity of contents (such as "giant quarts" or "jumbo gallons"). This does not preclude, however, describing in nondeceptive terms the net quantity of contents (for example, 14 ounces of quick-acting detergent), at other places on the label.

The Secretary of Health, Education, and Welfare and the Federal Trade Commission are each given authority in section 5(b) to exempt commodities (with respect to which they have regulatory authority under this legislation) from the mandatory requirements of section 4 where full compliance is impracticable or not necessary for the adequate protection of consumers. This would permit, for example, the Department of Health, Education, and Welfare to establish tolerances for loss of weight of certain foods due to evaporation where such weight loss is consistent with good packaging practices.

Discretionary labeling provisions

The Secretary of Health, Education, and Welfare and the Federal Trade Commission are each authorized, whenever they deem such action necessary to prevent the deception of consumers or to facilitate value comparisons, to promulgate regulations with regard to particular consumer commodities for the following purposes:

- (1) To determine what size packages may be represented by such descriptions as "small", "medium", and "large". They may do this by establishing specific weights or measures, or ranges of weights or measures, for such designations.

- (2) To require that wherever the label of any package refers to "servings", a statement be added as to the net quantity of each such serving in terms of weight, measure, or numerical count.

(3) To regulate, but not prohibit, the use of such promotions as "cents off" or "economy size" on any packages in order to assure that insofar as practicable any price reductions claimed on the package will be passed on to the consumer. Such regulations, for example, may require a showing on the part of manufacturers that the wholesale price has been reduced in an amount sufficient to enable retailers to pass on the appropriate "cents off" to the consumer; or they may limit the duration of, and the intervals between, such promotions; or the percentage of the output annually which may be marketed under "cents off" promotion.

(4) To require in the case of consumer commodities (other than food) consisting of two or more ingredients, the listing in order of decreasing predominance of the common or usual name of each ingredient without divulging trade secrets. This requirement is already applicable with regard to food under the provisions of the Federal Food, Drug, and Cosmetic Act.

(5) To prevent the nonfunctional slack fill of packages containing consumer commodities. A package is non-functionally-slack filled if it is filled to substantially less than its capacity for reasons other than (A) the necessary protection of the contents of such package, or (B) the necessary requirements, in accordance with sound manufacturing practices, of machines used for enclosing such contents.

Voluntary standards of weights and measures

Section 5(d) authorizes the Secretary of Commerce to call upon manufacturers, packers, and distributors of consumer commodities with regard to which he finds there exists undue proliferation of weights, measures, or quantities, to develop voluntary product standards for such commodities under the procedures established by the Secretary pursuant to the act of March 3, 1901. If within 1 year after such request has been made, the Secretary determines that no voluntary standards are being worked out for such commodity (or that existing voluntary standards are being violated) he shall promptly report his findings to the Congress together with his recommendations as to whether legislation is needed to provide regulatory authority to deal with the situation in question.

These provisions have been substituted for provisions originally contained in section 5(d) of H.R. 15440 and S. 985, which would have authorized the Secretary of Health, Education, and Welfare and the Federal Trade Commission to make such voluntary standards binding or to issue standardizing regulations of their own in the absence of agreement on voluntary industry standards.

The committee felt that the substitution of this entirely voluntary procedure was desirable in order to meet the recurrent objections raised by industry that mandatory standards would result in greatly increased cost to the consumer and would stifle packaging innovations. The procedure provided for under the bill calling for voluntary standards and reports to the Congress will permit the accumulation of adequate experience with regard to those marketing areas, if any, with regard to which these voluntary measures will not accomplish the desired objectives, and will afford the Congress an opportunity to take appropriate action with regard to such areas.

Procedure for promulgation of regulations

Section 6 of the bill provides that any regulation promulgated under it, whether by the Secretary of Health, Education, and Welfare or by the Federal Trade Commission, shall be promulgated after public proceedings and shall be subject to judicial review in conformity with the existing provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act. These provisions require that notice of proposed rulemaking be published in the Federal Register with an opportunity for all interested persons to file comments and suggestions. After that step has been completed, the promulgating authority may issue the regulations, in which event it must allow 30 days for the filing of objections by persons who will be adversely affected. These objections have the effect of narrowing and sharpening any issues that may remain in controversy and provide the basis for public hearings. When legally valid objections are filed the promulgating authority would be required to call for a hearing and the decision on the objections must be based on a fair evaluation of the record made at the hearing. Judicial review in a U.S. Court of Appeals is available within 90 days after the issuance of the final order based on the record at the hearing.

Effect upon State laws and cooperation with State authorities

The bill provides that its provisions and the regulations promulgated in accordance with it shall preempt labeling requirements with regard to net quantities of State laws or State regulations to the extent that such State laws or State regulations with respect to the labeling of net quantity of contents of packages impose inconsistent or less stringent requirements than are imposed under section 4 of this legislation.

The bill calls for the Secretary of Commerce to transmit copies of all regulations promulgated under the act to the appropriate State officials and to furnish information and assistance to promote the greatest possible uniformity in State and Federal regulations of the labeling of consumer commodities. This, of course, as the bill provides, is not to be considered as impairing or interfering with other programs of the Department of Health, Education, and Welfare carried on in cooperation with State and local authorities.

Definitions

"Consumer commodity" is defined to include any food, drug, device or cosmetic as those terms are defined in the Federal Food, Drug, and Cosmetic Act, and

"any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use."

Excluded from the definition are meat and meat food products, and poultry and poultry products—all of which are now regulated under laws administered by the Department of Agriculture; tobacco and tobacco products; commodities subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act or the Animal Virus-Serum-Toxin Act; drugs subject to the provisions of section 503(b)(1) (prescription drugs) or section

506 (insulin) of the Federal Food, Drug, and Cosmetic Act; beverages subject to or complying with packaging and labeling requirements imposed under the Federal Alcohol Administration Act; and commodities subject to the Federal Seed Act.

"Package" is defined to mean the container or wrapper in which the consumer commodity is enclosed for use in delivery or display to the retail purchaser. It does not include shipping containers, or wrappers used solely for transportation of the consumer commodity in bulk or in quantity to manufacturers, packers, processors, or to wholesale or to retail distributors, nor does it include shipping containers or outer wrappers used by retailers to ship or to deliver these commodities to retail customers if such containers or wrappers bear no printed matter pertaining to the particular commodity.

The bill defines "label" as any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon the package containing any consumer commodity. It defines "person" to include any firm, corporation, or association.

"Commerce" is defined to mean commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and commerce within the District of Columbia or within any territory or possession of the United States which does not have a legislative body. Exports to foreign countries are specifically excluded from such term. The bill defines the "principal display panel" to mean the part of the label most likely to be displayed, presented, shown, or examined under normal customary conditions of display for retail sale.

Saving provision

The requirements of the bill are in addition to provisions of existing law and section 11 provides that nothing in the act shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act or any statute defined therein as an antitrust act, the Federal Food, Drug, and Cosmetic Act, or the Federal Hazardous Substances Labeling Act.

Effective date

The act will become effective on July 1, 1967, and it is provided that the Secretary of Health, Education, and Welfare and the Federal Trade Commission may by regulation postpone the effective date for an additional 12-month period with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest. Moreover, the bill provides that no regulation adopted under it shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of the act, nor shall any regulation promulgated under this act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of any such regulation.

Reports to the Congress

In addition to the specific report to the Congress called for from the Secretary of Commerce as to experience with the voluntary standards, the bill provides that the Secretary of Commerce, the Secretary of Health, Education, and Welfare, and the Federal Trade Commission shall each transmit to the Congress in January of each year a report containing a complete description of the activities of

that officer or agency for the administration and enforcement of this act during the preceding fiscal year. This report could be made in the agency's annual report if it adequately covered the activities of the preceding fiscal year.

ADDITIONAL COST AND MANPOWER REQUIREMENTS

HEW estimates that the bill will require \$1.5 million in additional funds per year, while the Federal Trade Commission estimates that its responsibilities under the bill will entail an additional \$250,000 per year. The corresponding additional manpower requirements for HEW are 150 persons and 10 to 12 persons for the FTC. The Department of Commerce estimated that its additional cost for administration of the legislation would be about \$700,000 to \$1,000,000 a year, and informed the committee that the average cost of voluntary standard proceeding was approximately \$20,000.

AGENCY REPORTS

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 25, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 985, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

This Department recommends passage of the bill.

With the increasing number and variety of packaged products available, there is an increasing need for adequate information regarding quantity, quality, and prices in order for consumers to make rational choices. This bill would do much to meet that need.

The provisions of this bill are in many respects comparable to the labeling requirements under the Poultry Products Inspection Act. Under the Meat Inspection Act extensive regulations regarding labeling are also in effect. Provision has been made in S. 985 for exemption of meat and poultry products and certain other commodities and containers that are now regulated under Federal laws administered by this Department.

The requirements of this bill with respect to labeling of consumer commodities are extensions of comparable requirements under the Food, Drug, and Cosmetic Act governing the labeling of foods other than meat and poultry products.

This report is also in response to your request for comments on H.R. 15440, a bill to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 20, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for our comments upon H.R. 15440 and S. 985, bills to prevent the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities. The bills may be cited as the "Fair Packaging and Labeling Act."

The Department of Labor is on record as favoring legislation to insure truth in packaging and labeling. The most recent expression of this support is found in testimony by Mrs. Esther Peterson before the Senate Commerce Committee on S. 985. Mrs. Peterson testified on behalf of the Department of Labor and also as special assistant to the President for consumer affairs.

We note that there are some differences between S. 985 and H.R. 15440, but defer to the administering agencies for specific comment upon these differences.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., August 22, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your requests for the views of the Department of Justice concerning the bills S. 985 and H.R. 15440 to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The bills would be cited as the "Fair Packaging and Labeling Act." The legislation would, with certain exceptions, make it unlawful to package or label consumer commodities for distribution in commerce whose labels or packages fail to conform to regulations to be promulgated under the measure. The Secretary of Health, Education, and Welfare would administer the act in its application to foods, drugs, devices, and cosmetics, and the Federal Trade Commission would administer the act with respect to other consumer commodities. While the bills differ in certain respects, we defer to the agencies primarily concerned as to the provisions which would best accomplish the desired purpose.

The Department of Justice favors the enactment of this legislation which is designed to implement the recommendations of the President on fair packaging and labeling.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

RAMSEY CLARK,
Deputy Attorney General.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., August 4, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your requests for the views of this Department on S. 985, H.R. 15440, and H.R. 15707, bills to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce.

The bills are designed to prevent unfair and deceptive packaging and labeling of certain consumer commodities. The Secretary of Health, Education, and Welfare, with regard to foods, drugs, and cosmetics, and the Federal Trade Commission, with regard to all other consumer commodities, would be directed to promulgate regulations to insure that certain essential product information is included on the label of a commodity. The administering agencies would also be authorized to promulgate certain regulations on a commodity line basis and to establish reasonable retail weights or quantities in certain cases. S. 985 would implement the recommendations of the President for fair packaging and labeling legislation.

The only provision of the proposed legislation of primary interest to this Department is section 7(c) of S. 985 and H.R. 15440, which would direct the Secretary of the Treasury to enforce the packaging and labeling provisions with regard to imports of commodities. The Department anticipates no unusual enforcement problems under section 7(c) and would have no objection to its enactment.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

FRED B. SMITH,
General Counsel.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., July 26, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your requests for the views of the Bureau of the Budget on S. 985, H.R. 15440, and H.R. 15707, three bills each entitled the "Fair Packaging and Labeling Act." These bills, while differing in some respects, have the common purpose of preventing unfair or deceptive methods of packaging or labeling certain consumer commodities, and thus enabling consumers

to obtain accurate information essential to the effective operation of the markets in these commodities.

In his message of March 21, 1966, the President renewed his previous recommendations for equitable and effective legislation on packaging and labeling in order to help assure fair consumer choice based upon reliable information. The Special Assistant to the President for Consumer Affairs and representatives of the agencies principally interested in this legislation, in statements they have presented to your committee, endorse S. 985 as approved by the Senate.

Enactment of S. 985 would be in accord with the President's program.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., July 23, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your letter of June 15, 1966, requested a report by the General Services Administration on S. 985, 89th Congress, an act to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

The purposes of the act are to insure that the labels of packaged consumer commodities adequately inform consumers of the quantity and composition of their contents and to promote packaging practices which facilitate price comparisons by consumers.

The proposed legislation would affect the responsibilities and functions of the Department of Health, Education, and Welfare and the Federal Trade Commission rather than those of the General Services Administration. However, we are in accord with the purposes of S. 985 and favor its enactment as passed by the Senate.

The Bureau of the Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely yours,

LAWSON B. KNOTT, Jr.,
Administrator.

THE ASSISTANT SECRETARY OF COMMERCE,
Washington, D.C., September 23, 1966.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The Department of Commerce has been requested by your committee staff to estimate the cost to this Department of carrying out the provisions of H.R. 15440, the fair packaging and labeling bill.

Under section 5(d) of the bill, the Secretary of Commerce is to request industry to participate in the development of a voluntary product standard for any consumer commodity or reasonably comparable consumer commodities, being distributed in packages for retail sale, whenever he determines there is undue proliferation of the weights, measures, or quantities of such commodities and that this proliferation impairs the reasonable ability of consumers to make value comparisons.

At this time, it is, of course, not possible to say how many such standards-setting procedures will be initiated as a result of section 5(d). However, it has been the experience of the National Bureau of Standards that the average cost to the Government is approximately \$20,000 for each standard developed under the voluntary product standards program.

Furthermore, the authority given to the Secretary of Commerce under section 5(d) to determine undue proliferation is a new function for which cost figures are not available. Although the Secretary presumably will be aided in this activity by other departments and agencies of the Federal Government, as well as by State authorities, nevertheless it is expected that some additional staff within the Department of Commerce will be required.

Our best estimate of the total cost to the Department of Commerce for all responsibilities under H.R. 15440 would be \$700,000 to \$1 million the first year. This is a most speculative estimate and should be recognized as such.

Sincerely yours,

J. HERBERT HOLLOMON.

APPENDIX

FAIR PACKAGING AND LABELING ACT

Comparison of H.R. 15440, as amended, with present provisions of Federal Food, Drug, and Cosmetic Act

PROVISIONS OF H.R. 15440

(Sec. 4 directs Food and Drug Administration to issue regulations with respect to the following:)

Sec. 4(a)(1): Label must identify commodity and name and place of business of manufacturer, packer, or distributor.

Sec. 4(a)(2): Net quantity must be stated on principal display panel.

Sec. 4(a)(3)(A): On commodities containing less than 4 pounds, or less than 1 gallon, the content must be expressed (in order to facilitate cost-per-unit comparisons) both in ounces and in the largest whole units of pounds, pints, or quarts.

Sec. 4(a)(3)(B): Quantity content statement must be in contrast with background.

Sec. 4(a)(3)(C): Statements must be in type size proportional to display panel and such type size must be uniform for all packages of substantially the same size.

PRESENT LAW WITH REGARD TO FOODS, DRUGS, AND COSMETICS

Present law contains same requirements: foods, sec. 403(e)(1); drugs, sec. 502(b)(1); cosmetics, sec. 602(b).

Present law requires net quantity statement but does not require that such statement be located on the principal display panel: foods, sec. 403(c)(2); drugs, sec. 502(b)(2); cosmetics, sec. 602(b)(2).

Present law requires accurate statement of content in terms of weight, measure, or numerical count, but does not require statement in ounces, which would facilitate price-per-unit comparisons: foods, sec. 403(c)(2); drugs, sec. 502(c); cosmetics, sec. 602(c).

Present law requires statement to be prominently displayed and to be conspicuous but does not specifically refer to distinct contrast with other matter on the package: foods, sec. 403(f); drugs, sec. 502(c); cosmetics, sec. 602(c).

Present law requires statement to be prominently displayed and to be conspicuous but does not specifically refer to type size and uniformity for all packages of same size: foods, sec. 403(f); drugs, sec. 502(c); cosmetics, sec. 602(c).

Present law requires statement to be prominently displayed and conspicuous but does not require that statement appear parallel to base: foods, sec. 403(f); drugs, sec. 502(c); cosmetics, sec. 602(c).

General prohibition that label must not be "false or misleading in any particular" but no specific prohibition with regard to qualifying words or phrases appearing in conjunction with statement of quantity: foods, sec. 403(a); drugs, sec. 502(a); cosmetics, sec. 602(a).

No comparable authority to promulgate regulations. Only possibility of case-by-case action if statement is false or misleading.

Do.

Do.

Statement of ingredients is required for foods in order of predominance with special provision for spices, flavoring, and coloring, sec. 403 (g) and (i); drugs are required to contain a statement of active ingredients, and in some cases, all ingredients sec. 502 (d) and (e); there is no requirement for a statement of ingredients with regard to cosmetics. Present law contains no exceptions involving proprietary trade secrets.

Secs. 403(d), 502(i) and 602(d) declare foods, drugs, and cosmetics to be misbranded if their containers are so made, formed, or filled as to be misleading.

Sec. 4(a)(3)(D): Statements must be parallel to the base on which package rests when displayed.

Sec. 4(b): Prohibition of qualifying words in connection with net quantity statement ("giant quart," for example).

(Sec. 5(c) authorizes the Food and Drug Administration, in order to prevent the deception of consumers or to facilitate price comparisons as to any consumer commodity, to issue regulations with regard to the following:)

Sec. 5(c)(1) to establish standards for size characterizations such as "large," "medium," "small."

Sec. 5(c)(2) to require "serving statements, if any, to be followed by statements of net quantity of such servings.

Sec. 5(c)(3) to regulate such promotions as to "cents-off" or "economy size,"

Sec. 5(c)(4) to require information with respect to ingredients in the order of decreasing predominance (except in case of situations involving proprietary trade secrets).

Sec. 5(a)(5) authorizes the prevention of nonfunctional slack fill.

Comparison of H.R. 15440, as amended, with present provisions of the Federal Trade Commission Act

PROVISIONS OF H.R. 15440

(Sec. 4 directs the Federal Trade Commission to promulgate regulations pertaining to the distribution in commerce of any consumer commodity (as defined in this act) which is not a food, drug, device, or cosmetic, as each such term is defined by sec. 201 of the Food, Drug, and Cosmetic Act (21 U.S.C. 312) with respect to the following:)

SEC. 4(a)(1): The commodity must bear a label specifying the identity of the commodity and the name and place of business, the manufacturer, packer, or distributor.

Sec. 4(a)(2): Net quantity must be stated on principal display panel.

Sec. 4(a)(3)(A): On commodities containing less than 4 pounds, or less than 1 gallon, the content must be expressed (in order to facilitate cost-per-unit comparisons) both in ounces, and in the largest whole units of pounds, pints, or quarts.

PRESENT LAW

(Present statutory authority of the Federal Trade Commission with regard to consumer commodities (as defined by this act) other than food, drug, device, and cosmetic.)

(Under sec. 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45) unfair methods of competition and unfair acts or practices in commerce are declared unlawful.)

The Federal Trade Commission Act does not grant the Commission specific authority to issue such a regulation.

Under the aforementioned sec. 5(a)(1) of the Federal Trade Commission Act, the Commission in a case-by-case proceeding against individual manufacturers may, where it has jurisdiction, require the disclosure of the information specified in this subsection, if the Commission finds that the failure to disclose affirmatively such information is deceptive or likely to be deceptive.

The authority of the Commission to issue trade regulation rules, as the Commission did with reference to cigarette labeling and advertising, has never been passed on in the courts.

Present law is as heretofore given.

Do:

Sec. 4(a)(3)(B): Quantity content statement must be in contrast with background.

Sec. 4(a)(3)(C): Statements must be in type size proportional to display panel and such type size must be uniform for all packages of substantially the same size.

Sec. 4(a)(3)(D): Statement must be parallel to the base on which package rests when displayed.

Sec. 4(b): Prohibition of qualifying words in connection with net quantity statement ("giant quart," for example).

(Sec. 5(c) authorizes the Federal Trade Commission to promulgate regulations pertaining to any consumer commodity, except those pertaining to food, drug, device, or cosmetic, to be in addition to the regulations prescribed by sec. 4 where it determines such regulations "are necessary to prevent the deception of consumers or to facilitate price comparisons as to any consumer commodity.")

Sec. 5(c)(1) to establish standards for size characterizations such as "large," "medium," "small."

Sec. 5(c)(2) to require "serving" statements, if any, to be followed by statements of net quantity of such servings.

Sec. 5(c)(3) to regulate such promotions as "cents-off" or "economy size."

Sec. 5(c)(4) to require information with respect to ingredients in the order of decreasing predominance and composition except in case of situations involving proprietary trade secrets.

Sec. 5(c)(5) authorizes the prevention of nonfunctional slack-fill.

Do.

Present law is as heretofore given.

Do.

Do.

(Under the aforementioned sec. 5(a)(1) of the Federal Trade Commission Act, the Commission has statutory authority in the manner hereinbefore noted on a case-by-case basis with regard to deception but has none with reference to the facilitation of price comparison.)

The present law is as heretofore given with reference to the mandatory regulations prescribed in the subsections of sec. 4.

The present law is as heretofore given with reference to sec. 5(c)(1).

The present law is as heretofore given with reference to sec. 5(c)(1).

The present law is as heretofore given with reference to sec. 5(c)(1).

The present law is as heretofore given with reference to sec. 5(c)(1).

PRESENT LAW WITH RESPECT TO POULTRY PRODUCTS

PROVISIONS OF H.R. 15440

(Sec. 4 directs Food and Drug Administration to issue regulations with respect to the following:)

Sec. 4(a)(1): Label must identify commodity and name and place of business of manufacturer, packer, or distributor.

Sec. 4(a)(2): Net quantity must be stated on principal display panel.

Sec. 4(a)(3)(A): On commodities containing less than 4 pounds, or less than 1 gallon, the content must be expressed (in order to facilitate cost-per-unit comparisons) both in ounces and in the largest whole units of pounds, pints, or quarts.

Sec. 4(a)(3)(B): Quantity content statement must be in contrast with background.

Sec. 4(a)(3)(C): Statements must be in type size proportional to display panel and such type size must be uniform for all packages of substantially the same size.

Present law requires¹ immediate containers to show the name and address of the "processor" but permits alternatively the use of the name and address of the "distributor" under specified conditions; also requires the name of the product. Sec. 8(a) (21 U.S.C. 457(a)).

Present law requires¹ a statement of net weight or other appropriate measure of the contents to appear on immediate containers. Sec. 8(a) (21 U.S.C. 457(a)). Under present law, approval of labels before use is required. Sec. 8(b) (21 U.S.C. 457(b)); (7 CFR 81.125). Under this procedure, the statement of net weight is required to appear on the principal display panel.

See comment relating to sec. 4(a)(2). Present law does not require content to be expressed in ounces or whole units of pounds, pints, or quarts. Sec. 8(a) (21 U.S.C. 457(a)). Under the approval-before-use procedure the Department uses as guidelines model regulations of the Bureau of Standards pertaining to labeling of consumer products.

See comment relating to sec. 4(a)(2). Present law requires the quantity content statement to be in distinctly legible form. Sec. 8(a) (21 U.S.C. 457(a)). Under approval-before-use procedure, such statement is required to be in contrast with background.

Present law requires statements to be in distinctly legible form. Sec. 8(a) (21 U.S.C. 457(a)). Under approval-before-use procedure, type size and uniformity are considered in approving labels. (7 CFR 81.127).

Sec. 4(a)(3)(D): Statements must be parallel to the base on which package rests when displayed.

Sec. 4(b): Prohibition of qualifying words in connection with net quantity statements ("giant quart," for example).

(Sec. 5(c) authorizes Food and Drug Administration to issue regulations with regard to the following:)

Sec. 5(c)(1) to establish standards for size characterizations such as "large," "medium," "small."

Sec. 5(c)(2) to require "serving" statements, if any, to be followed by statements of net quantity of such servings.

Sec. 5(c)(3) to regulate such promotions as to "cents off" or "economy size."

Sec. 5(c)(4) to require information with respect to ingredients in the order of decreasing predominance (except in case of situations involving proprietary trade secrets).

Present law requires statements to be in distinctly legible form. Sec. 8(a) (21 U.S.C. 457(a)). Under approval-before-use procedure, the requirement prevails that statements be parallel to the base on which the package rests when displayed.

Present law prohibits use of false, misleading, or deceptive labels. Sec. 8(b), 9(d) (21 U.S.C. 457(b), 458(d)). Under approval-before-use procedure, such qualifying words are considered misleading and deceptive, and therefore are prohibited.

No comparable authority except that insofar as statement is false or misleading sec. 8(b) would apply.

Sec comment relating to sec. 5(c)(1).

See comment relating to sec. 5(c)(1). In this regard, the Department under approval-before-use procedure has required that manufacturers submit satisfactory evidence that there was no change in product formula or quality, and that the base price to which the "cents off" applies also be shown on the label.

Statement of ingredients on immediate containers is required by present law. The regulations under present law require that ingredients be listed in order of their descending proportions (7 CFR 81.130(a)(2)). Present law makes no exception from labeling requirements for proprietary trade secrets.¹ (Sec. 8(a) (21 U.S.C. 457(a).)

¹ The Secretary of Agriculture is authorized to permit reasonable variations and grant exemptions from labeling requirements of the Act (sec. 8(a); 21 U.S.C. 457(a)).

PROVISIONS OF H.R. 15440

PRESENT LAW

The present regulations have no provisions limiting the weights or quantities in which poultry or poultry products may be distributed. Under approval-before-use procedure, however, variances from customary retail weights which might have such result, are required to be stated on the label in large print so as to alert the consumer.

Sec. 5(c)(5) authorizes the prevention of nonfunctional slack-fill.

Present regulations require advance approval of packages and therefore there is authority to prevent slack-filling.

Comparison of H.R. 15440, as amended, with the present provisions of the Meat Inspection Act, as amended, extended and supplemented (21 U.S.C. 71-91, 96; 19 U.S.C. 1306 (b) and (c))

PROVISIONS OF H.R. 15440

(Section 4 directs Food and Drug Administration to issue regulations with respect to the following:)

PRESENT LAW

(The present act prohibits (21 U.S.C. 75) the sale under a false or deceptive name, in interstate or foreign commerce, of meat or meat food products packed in containers at federally inspected establishments but permits the use of established trade names usual to such products if they are not false and deceptive and if they are approved by the Secretary of Agriculture. The act also authorizes (21 U.S.C. 89) regulations necessary to the efficient execution of its provisions and inter alia prohibits (21 U.S.C. 79) unauthorized use or failure to use labels provided for in the act, or the regulations thereunder on products subject to the act or the containers thereof. Under these provisions and others requiring marks of Federal inspection (chiefly 21 U.S.C. 72, 74, 78) regulations and published instructions,² have been issued specifying information required to appear on meat and meat food products subject

Sec. 4(a)(1): Label must identify commodity and name and place of business of manufacturer, packer, or distributor.

Sec. 4(a)(2): Net quantity must be stated on principal display panel.

to the act, or on labels on the containers thereof (9 CFR pts. 316, 317) and requiring submission to and approval by the Department of labels prior to use (9 CFR 317.4.)

Present regulations require labels showing the true name of the product and the name and place of business of the manufacturer, packer, or person for whom the product is prepared (9 CFR 317.1, 317.2).

Net quantity statements are required to be stated on the principal display panel (MMIP 317.10 (a), (c)). Present regulations require that a net quantity statement must not be false or deceptive; must represent in terms of avoirdupois weight or liquid measure the quantity of product in the package exclusive of materials packed with it; in absence of contrary consumer usage, must be in terms of liquid measure, if the product is liquid, or in terms of weight if the product is solid, semisolid, viscous, or a mixture of solid and liquid. The regulations provide that unless the statement is qualified to show that it expresses the minimum quantity, it shall be taken to express the actual quantity; when the statement expresses the minimum quantity, no variation below shall be permitted and variations above the stated minimum shall be no greater than consistent with filling the container to the stated minimum in accordance with good commercial practice; and when the statement expresses actual quantity, variations incident to packaging in accordance with good commercial practice shall be allowed but the average shall not be less than the quantity stated. Different provisions are applicable to products prepared for foreign commerce. (9 CFR 317.8(d), 317.7).

² Manual of Meat Inspection Procedure, hereinafter referred to as "MMIP."

PROVISIONS OF H.R. 15440

Sec. 4(a)(3)(A): On commodities containing less than 4 pounds, or less than 1 gallon, the content must be expressed (in order to facilitate cost-per-unit comparisons) both in ounces, and in the largest whole units of pounds, pints, or quarts.

Sec. 4(a)(3)(B): Quantity content statement must be in contrast with background.

Sec. 4(a)(3)(C): Statements must be in type size proportional to display panel and such type size must be uniform for all packages of substantially the same size.

Sec. 4(a)(3)(D): Statements must be parallel to the base on which package rests when displayed.

Sec. 4(b): Prohibition of qualifying words in connection with net quantity statement ("giant quart," for example).

(Sec. 5(c) authorizes food and drug administration to issue regulations with regard to the following:)

Sec. 5(c)(1) to establish standards for size characterizations such as "large," "medium," "small."

Sec. 5(c)(2) to require "serving" statements, if any, to be followed by statements of net quantity of such servings.

Sec. 5(c)(3) with regard to "cents-off" or "economy size."

PRESENT LAW

Regulations and published instructions provide that labels are approved only if the statement of net weight or measure is expressed in the largest applicable unit, e.g., 1 pound instead of 16 ounces, 1 pound 4 ounces instead of 20 ounces. (9 CFR 317.4, 317.6, 317.8(d); "NMIP" 317.25.)

Under approval-before-use procedure provided for by 9 CFR 317.4 labels are not approved unless the quantity content statement is in contrast with background. (NMIP 317.10(d) and (e)).

Under approval-before-use procedure (9 CFR 317.4) statements must be large enough, consistent with size of package, to be easily read under normal display conditions, and in proportion to display panel.

Under approval-before-use procedure (9 CFR 317.4) statements must be so positioned as to be easily read under normal display conditions.

Present regulations prohibit the use of such qualifying statements with respect to net quantity. (9 CFR 317.8 (c).)

There are no comparable standards in the present regulations.³

There is no present definition of a "serving" in the present regulation.³

There is no specific restriction with respect to "cents-off" or "economy size" representations in the present regulations.³ In this regard, however, the Department, under the approval-before-use procedure, requires that

there be no change in the product formula and that the label show the base price to which the "cents-off" applies.

The present regulations require a list of ingredients, arranged in the order of their predominance, with special provisions for spices and flavorings. There is no requirement that percentages be shown and no exception for proprietary trade secrets. (9 CFR 316.14, 317.1, 317.2)

Present regulations require advance approval of packages and therefore there is authority to prevent slack-filling.

Sec. 5(c)(4) involving information with respect to ingredients in the order of decreasing predominance (except in case of situations involving proprietary trade secrets).

Sec. 5(c)(5) authorizes the prevention of nonfunctional slack-fill.

³ However, the prohibitions in the regulations against false or deceptive quantity statements, and false or deceptive names or statements of quality or origin, are applicable (9 CFR 317.8 (a), (c) and (d)).



Union Calendar No. 919

89TH CONGRESS
2^D SESSION

H. R. 15440

[Report No. 2076]

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 1966

MR. STAGGERS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

SEPTEMBER 23, 1966

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Fair Packaging and
4 Labeling Act”.

5 DECLARATION OF POLICY

6 SEC. 2. Informed consumers are essential to the fair and
7 efficient functioning of a free market economy. Packages

1 and their labels should enable consumers to obtain accurate
2 information as to the quantity of the contents and should
3 facilitate price comparisons. Therefore, it is hereby declared
4 to be the policy of the Congress to assist consumers and
5 manufacturers in reaching these goals in the marketing of
6 consumer goods.

7 PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND
8 LABELING

9 SEC. 3. (a) It shall be unlawful for any person engaged
10 in the packaging or labeling of any consumer commodity (as
11 defined in this Act) for distribution in commerce, or for any
12 person (other than a common carrier for hire, a contract
13 carrier for hire, or a freight forwarder for hire) engaged in
14 the distribution in commerce of any packaged or labeled con-
15 sumer commodity, to distribute or to cause to be distributed
16 in commerce any such commodity if such commodity is con-
17 tained in a package, or if there is affixed to that commodity
18 a label, which does not conform to the provisions of this Act
19 and of regulations promulgated under the authority of this
20 Act.

21 (b) The prohibition contained in subsection (a) shall
22 not apply to persons engaged in business as wholesale or re-
23 tail distributors of consumer commodities except to the extent
24 that such persons (1) are engaged in the packaging or label-
25 ing of such commodities, or (2) prescribe or specify by any

1 means the manner in which such commodities are packaged
2 or labeled.

3 REQUIREMENTS AND PROHIBITIONS

4 SEC. 4. ~~(a)~~ No person subject to the prohibition con-
5 tained in section 3 shall distribute or cause to be distributed
6 in commerce any packaged or labeled consumer commodity
7 unless in conformity with regulations established by the
8 promulgating authority pursuant to section 6 of this Act
9 which shall provide that:

10 ~~(1)~~ The commodity shall bear a label specifying the
11 identity of the commodity and the name and place of busi-
12 ness of the manufacturer, packer, or distributor; and

13 ~~(2)~~ The net quantity of contents (in terms of weight,
14 measure, or numerical count) shall be separately and accu-
15 rately stated in a uniform location upon the principal display
16 panel of that label if that consumer commodity is enclosed
17 in a package; and

18 ~~(3)~~ The separate label statement of net quantity of
19 contents appearing upon or affixed to any package—

20 ~~(A)~~ if expressed in terms of weight or fluid volume,
21 on any package of a consumer commodity containing
22 less than four pounds or one gallon, shall be expressed
23 in ounces or in whole units of pounds, pints, or quarts
24 ~~(avoirdupois or liquid, whichever may be appropriate);~~

1 ~~(B)~~ shall appear in conspicuous and easily legible
2 type in distinct contrast ~~(by topography, layout, color,~~
3 ~~embossing, or molding)~~ with other matter on the
4 package;

5 ~~(C)~~ shall contain letters or numerals in a type
6 size which shall be ~~(i)~~ established in relationship to the
7 area of the principal display panel of the package, and
8 ~~(ii)~~ uniform for all packages of substantially the same
9 size; and

10 ~~(D)~~ shall be so placed that the lines of printed
11 matter included in that statement are generally parallel
12 to the base on which the package rests as it is designed
13 to be displayed.

14 ~~(b)~~ No person subject to the prohibition contained in
15 section 3 shall distribute or cause to be distributed in com-
16 merce any packaged consumer commodity if any qualify-
17 ing words or phrases appear in conjunction with the separate
18 statement of the net quantity of contents required by sub-
19 section ~~(a)~~, but nothing in this subsection or in paragraph
20 ~~(2)~~ of subsection ~~(a)~~ shall prohibit supplemental state-
21 ments, at other places on the package, describing in non-
22 deceptive terms the net quantity of contents: *Provided*, That
23 such supplemental statements of net quantity of contents
24 shall not include any term qualifying a unit of weight, meas-

1 are, or count that tends to exaggerate the amount of the
2 commodity contained in the package.

3 ADDITIONAL REGULATIONS

4 SEC. 5. (a) The authority to promulgate regulations
5 under this Act is vested in (A) the Secretary of Health,
6 Education, and Welfare (referred to hereinafter as the "Sec-
7 retary") with respect to any consumer commodity which is
8 a food, drug, device, or cosmetic, as each such term is defined
9 by section 201 of the Federal Food, Drug, and Cosmetic Act
10 (21 U.S.C. 321); and (B) the Federal Trade Commission
11 (referred to hereinafter as the "Commission") with respect
12 to any other consumer commodity.

13 (b) If the promulgating authority specified in this sec-
14 tion finds that, because of the nature, form, or quantity of a
15 particular consumer commodity, or for other good and suf-
16 ficient reasons, full compliance with all of the requirements
17 otherwise applicable under section 4 of this Act is imprac-
18 ticable or is not necessary for the adequate protection of
19 consumers, the Secretary or the Commission (whichever the
20 ease may be) shall promulgate regulations exempting such
21 commodity from those requirements to the extent and under
22 such conditions as the promulgating authority determines to
23 be consistent with section 2 of this Act.

24 (c) Whenever the promulgating authority determines

1 that regulations containing prohibitions or requirements other
2 than those prescribed by section 4 are necessary to prevent
3 the deception of consumers or to facilitate price comparisons
4 as to any consumer commodity; such authority shall promul-
5 gate with respect to that commodity regulations effective to—

6 ~~(1)~~ establish and define standards for characteriz-
7 ing the size of a package enclosing any consumer com-
8 modity, which may be used to supplement the label
9 statement of net quantity of contents of packages contain-
10 ing such product; but this paragraph shall not be con-
11 strued as authorizing any limitation on the size, shape,
12 weight, dimensions, or number of packages which may
13 be used to enclose any product or commodity;

14 ~~(2)~~ establish and define the net quantity of any
15 product (in terms of weight, measure, or count) which
16 shall constitute a serving; if that product is distributed
17 to retail purchasers in a package or with a label which
18 bears a representation as to the number of servings pro-
19 vided by the net quantity of contents contained in that
20 package or to which that label is affixed;

21 ~~(3)~~ regulate the placement upon any package con-
22 taining any product, or upon any label affixed to such
23 product, of any printed matter stating or representing
24 by implication that such product is offered for retail sale
25 at a price lower than the ordinary and customary retail

1 sale price or that a retail sale price advantage is ac-
2 corded to purchasers thereof by reason of the size of that
3 package or the quantity of its contents; and

4 ~~(4)~~ require ~~(consistent with requirements imposed~~
5 ~~by or pursuant to the Federal Food, Drug, and Cosmetic~~
6 ~~Act, as amended)~~ that information with respect to the
7 ingredients and composition of any consumer commodity
8 ~~(other than information concerning proprietary trade~~
9 ~~secrets)~~ be placed upon packages containing that com-
10 modity; and

11 ~~(5)~~ prevent the distribution of that commodity for
12 retail sale in packages of sizes, shapes, or dimensional
13 proportions which are likely to deceive retail purchasers
14 in any material respect as to the net quantity of the
15 contents thereof ~~(in terms of weight, measure, or~~
16 ~~count).~~

17 ~~(d)~~ Whenever the promulgating authority determines,
18 after a hearing conducted in compliance with section 7 of
19 the Administrative Procedure Act, that the weights or quan-
20 tities in which any consumer community is being distributed
21 for retail sale or likely to impair the ability of consumers
22 to make price per unit comparisons such authority shall—

23 ~~(1)~~ publish such determination in the Federal
24 Register; and

1 ~~(2)~~ promulgate, subject to the provisions of sub-
2 sections ~~(e)~~, ~~(f)~~, and ~~(g)~~, regulations effective to
3 establish reasonable weights or quantities, or fractions
4 or multiples thereof, in which any such consumer com-
5 modity shall be distributed for retail sale.

6 ~~(e)~~ At any time within sixty days after the publica-
7 tion of any determination pursuant to subsection ~~(d)~~ ~~(1)~~
8 as to any consumer commodity, any producer or distributor
9 affected may request the Secretary of Commerce to partici-
10 pate in the development of a voluntary product standard
11 for such commodity under the procedures for the develop-
12 ment of voluntary product standards established by the Sec-
13 retary pursuant to section 2 of the Act of March 3, 1901
14 ~~(31 Stat. 1449, as amended; 15 U.S.C. 272)~~. Such pro-
15 cedures shall provide adequate manufacturer, distributor, and
16 consumer representation. Upon the filing of any such re-
17 quest, the Secretary shall transmit notice thereof to the
18 authority which has caused notice of such determination to
19 be published.

20 ~~(f)~~ No regulation promulgated pursuant to subsection
21 ~~(d)~~ ~~(2)~~ with respect to any consumer commodity may—

22 ~~(1)~~ vary from any voluntary product standard in
23 effect with respect to that consumer commodity which
24 was published—

25 ~~(A)~~ before the publication of any determination

1 with respect to that consumer commodity pursuant to
2 subsection ~~(d)~~ (1);

3 ~~(B)~~ within one year after the filing pursuant to
4 this section of a request for the establishment of a volun-
5 tary product standard with respect to that consumer
6 commodity; or

7 ~~(C)~~ within such period of time ~~(not exceeding~~
8 ~~eighteen months after the filing of such request)~~ as the
9 promulgating authority may deem proper upon a certifi-
10 cation by the Secretary of Commerce that such a volun-
11 tary product standard with respect to that consumer
12 commodity is under active consideration and that there
13 is presently grounds for belief that such a standard for
14 that commodity will be published within a reasonable
15 period of time;

16 ~~(2)~~ establish any weight or measure in any amount
17 less than two ounces;

18 ~~(3)~~ preclude the use of any package of particular
19 dimensions or capacity customarily used for the distribu-
20 tion of related products of varying densities, except to
21 the extent that it is determined that the continued use
22 of such package for such purpose is likely to deceive
23 consumers; or

24 ~~(4)~~ preclude the continued use of particular di-

1 mensions or capacities of returnable or reusable glass
2 containers for beverages in use as of the effective date
3 of the Act.

4 ~~(g)~~ In the promulgation of regulations under subsec-
5 tion ~~(d)~~ ~~(2)~~ of this section, due regard shall be given to
6 the probable effect of such regulations upon—

7 ~~(1)~~ the cost of the packaging of the products
8 affected;

9 ~~(2)~~ the availability of any product in a reasonable
10 range of package sizes to serve consumer convenience;

11 ~~(3)~~ the materials used for the packaging of the
12 affected products;

13 ~~(4)~~ the weights and measures customarily used in
14 the packaging of the affected products; and

15 ~~(5)~~ competition between containers made of dif-
16 ferent types of packaging material.

17 PROCEDURE FOR PROMULGATION OF REGULATIONS

18 SEC. 6. ~~(a)~~ Regulations promulgated by the Secretary
19 under section 4 or section 5 of this Act shall be promulgated,
20 and shall be subject to judicial review, pursuant to the pro-
21 visions of subsections ~~(e)~~, ~~(f)~~, and ~~(g)~~ of section 701 of
22 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371
23 ~~(e)~~, ~~(f)~~, and ~~(g)~~). Hearings authorized or required for
24 the promulgation of any such regulations by the Secretary
25 shall be conducted by the Secretary or by such officer or em-

1 ployee of the Department of Health, Education, and Welfare
2 as he may designate for that purpose.

3 ~~(b)~~ Regulations promulgated by the Commission under
4 section 4 or section 5 of this Act shall be promulgated, and
5 shall be subject to judicial review, by proceedings taken in
6 conformity with the provisions of subsections ~~(e)~~, ~~(f)~~, and
7 ~~(g)~~ of section 701 of the Federal Food, Drug, and Cosmetic
8 Act ~~(21 U.S.C. 371 (e), (f), and (g))~~ in the same man-
9 ner, and with the same effect, as if such proceedings were
10 taken by the Secretary pursuant to subsection ~~(a)~~ of this
11 section. Hearings authorized or required for the promulga-
12 tion of any such regulations by the Commission shall be con-
13 ducted by the Commission or by such officer or employee
14 of the Commission as the Commission may designate for that
15 purpose.

16 ~~(c)~~ In carrying into effect the provisions of this Act, the
17 Secretary and the Commission are authorized to cooperate
18 with any department or agency of the United States, with
19 any State, Commonwealth, or possession of the United States,
20 and with any department, agency, or political subdivision of
21 any such State, Commonwealth, or possession.

22 ~~(d)~~ No regulation adopted under this Act shall preclude
23 the continued use of returnable or reusable glass containers
24 for beverages in inventory or with the trade as of the effec-
25 tive date of this Act.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a)

1 and ~~(b)~~ of the Federal Food, Drug, and Cosmetic Act ~~(21~~
2 ~~U.S.C. 381)~~.

3 REPORTS TO THE CONGRESS

4 SEC. 8. Each officer or agency required or authorized
5 by this Act to promulgate regulations for the packaging or
6 labeling of any consumer commodity, or to participate in the
7 development of voluntary product standards with respect
8 to any consumer commodity under procedures referred to in
9 section 5~~(e)~~ of this Act, shall transmit to the Congress in
10 January of each year a report containing a full and complete
11 description of the activities of that officer or agency for the
12 administration and enforcement of this Act during the pre-
13 ceeding fiscal year.

14 COOPERATION WITH STATE AUTHORITIES

15 SEC. 9. ~~(a)~~ A copy of each regulation promulgated
16 under this Act shall be transmitted promptly to the Secretary
17 of Commerce, who shall ~~(1)~~ transmit copies thereof to all
18 appropriate State officers and agencies, and ~~(2)~~ furnish to
19 such State officers and agencies information and assistance
20 to promote to the greatest practicable extent uniformity in
21 State and Federal regulation of the labeling of consumer
22 commodities.

23 ~~(b)~~ Nothing contained in this section shall be construed
24 to impair or otherwise interfere with any program carried

1 into effect by the Secretary of Health, Education, and Wel-
 2 fare under other provisions of law in cooperation with State
 3 governments or agencies; instrumentalities, or political sub-
 4 divisions thereof.

5 DEFINITIONS

6 SEC. 10. For the purpose of this Act—

7 (a) The term “consumer commodity”, except as other-
 8 wise specifically provided by this subsection, means any food,
 9 drug, device, or cosmetic (as those terms are defined by the
 10 Federal Food, Drug, and Cosmetic Act), and any other
 11 article, product, or commodity of any kind or class which is
 12 customarily produced or distributed for sale through retail
 13 sales agencies or instrumentalities for consumption by indi-
 14 viduals; or use by individuals for purposes of personal care
 15 or in the performance of services ordinarily rendered within
 16 the household, and which usually is consumed or expended
 17 in the course of such consumption or use. Such term does
 18 not include—

19 (1) any meat or meat product, poultry or poultry
 20 product, or tobacco or tobacco product;

21 (2) any commodity subject to packaging or label-
 22 ing requirements imposed by the Secretary of Agri-
 23 culture pursuant to the Federal Insecticide, Fungicide,
 24 and Rodenticide Act, or the provisions of the eighth
 25 paragraph under the heading “Bureau of Animal Indus-

try" of the Act of March 4, 1913 (37 Stat. 832-833;
21 U.S.C. 151-157), commonly known as the Virus-
Serum-Toxin Act;

(3) any drug subject to the provisions of sections
503(b)(1) or 506 of the Federal Food, Drug, and
Cosmetic Act (21 U.S.C. 353(b)(1), 355, 356, 357);

(4) any beverage subject to or complying with
packaging or labeling requirements imposed under the
Federal Alcohol Administration Act (27 U.S.C. 201
et seq.); or

(5) any commodity subject to the provisions of the
Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrap-
ping in which any consumer commodity is enclosed for use
in the delivery or display of that consumer commodity to
retail purchasers, but does not include—

(1) shipping containers or wrappings used solely
for the transportation of any consumer commodity in
bulk or in quantity to manufacturers, packers, or proces-
sors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used
by retailers to ship or deliver any commodity to retail
customers if such containers and wrappings bear no
printed matter pertaining to any particular commodity;
or

~~(3)~~ containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i);

~~(c)~~ The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity;

~~(d)~~ The term "person" includes any firm, corporation, or association;

~~(e)~~ The term "commerce" means ~~(1)~~ commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or territory and any place outside thereof, and ~~(2)~~ commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries; and

~~(f)~~ The term "principal display panel or panels" means that part, or those parts, of a label that is, or are most likely to be, displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, supersede, or otherwise adversely affect—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Hazardous Substance Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared it is the express intent of Congress to supersede any and all laws of the State or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which differ from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on the first day of the sixth month beginning after the date of its enactment: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with

1 respect to any class or type of consumer commodity on the
 2 basis of a finding that such a postponement would be in the
 3 public interest.

4 *That this Act may be cited as the "Fair Packaging and*
 5 *Labeling Act".*

6 *DECLARATION OF POLICY*

7 *SEC. 2. Informed consumers are essential to the fair and*
 8 *efficient functioning of a free market economy. Packages*
 9 *and their labels should enable consumers to obtain accurate*
 10 *information as to the quantity of the contents and should*
 11 *facilitate value comparisons. Therefore, it is hereby declared*
 12 *to be the policy of the Congress to assist consumers and*
 13 *manufacturers in reaching these goals in the marketing of*
 14 *consumer goods.*

15 *PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND* 16 *LABELING*

17 *SEC. 3. (a) It shall be unlawful for any person engaged*
 18 *in the packaging or labeling of any consumer commodity (as*
 19 *defined in this Act) for distribution in commerce, or for any*
 20 *person (other than a common carrier for hire, a contract*
 21 *carrier for hire, or a freight forwarder for hire) engaged in*
 22 *the distribution in commerce of any packaged or labeled con-*
 23 *sumer commodity, to distribute or to cause to be distributed*
 24 *in commerce any such commodity if such commodity is con-*
 25 *tained in a package, or if there is affixed to that commodity*

1 a label, which does not conform to the provisions of this Act
 2 and of regulations promulgated under the authority of this
 3 Act.

4 (b) The prohibition contained in subsection (a) shall
 5 not apply to persons engaged in business as wholesale or re-
 6 tail distributors of consumer commodities except to the extent
 7 that such persons (1) are engaged in the packaging or label-
 8 ing of such commodities, or (2) prescribe or specify by any
 9 means the manner in which such commodities are packaged
 10 or labeled.

11 REQUIREMENTS AND PROHIBITIONS

12 SEC. 4. (a) No person subject to the prohibition con-
 13 tained in section 3 shall distribute or cause to be distributed
 14 in commerce any packaged consumer commodity unless in
 15 conformity with regulations established by the promulgating
 16 authority pursuant to section 6 of this Act which shall
 17 provide that—

18 (1) The commodity shall bear a label specifying the
 19 identity of the commodity and the name and place of busi-
 20 ness of the manufacturer, packer, or distributor;

21 (2) The net quantity of contents (in terms of weight,
 22 measure, or numerical count) shall be separately and accu-
 23 rately stated in a uniform location upon the principal display
 24 panel of that label; and

1 (3) The separate label statement of net quantity of
2 contents appearing upon or affixed to any package—

3 (A)(i) if on a package containing less than four
4 pounds or one gallon and labeled in terms of weight or
5 fluid measure, shall, unless subparagraph (ii) applies
6 and such statement is set forth in accordance with such
7 subparagraph, be expressed both in ounces (with identi-
8 fication as to avoirdupois or fluid ounces) and, if ap-
9 plicable, in pounds for weight units, with any remainder
10 in terms of ounces or common or decimal fractions of the
11 pound; or, in the case of liquid measure, in the largest
12 whole unit (quarts, quarts and pints, or pints, as appro-
13 priate) with any remainder in terms of fluid ounces or
14 common or decimal fractions of the pint or quart;

15 (ii) if on a random package, may be expressed in
16 terms of pounds and decimal fractions of the pound
17 carried out to not more than two decimal places;

18 (iii) if on a package labeled in terms of linear
19 measure, shall be expressed in terms of inches and the
20 largest whole unit (yards, yards and feet, or feet, as
21 appropriate) with any remainder in terms of inches or
22 common or decimal fractions of the foot or yard;

23 (iv) if on a package labeled in terms of measure
24 of area, shall be expressed in terms of square inches and
25 the largest whole square unit (square yards, square yards

1 *and square feet, or square feet, as appropriate) with any*
2 *remainder in terms of square inches or common or deci-*
3 *mal fractions of the square foot or square yard;*

4 *(B) shall appear in conspicuous and easily legible*
5 *type in distinct contrast (by typography, layout, color,*
6 *embossing, or molding) with other matter on the*
7 *package;*

8 *(C) shall contain letters or numerals in a type*
9 *size which shall be (i) established in relationship to the*
10 *area of the principal display panel of the package, and*
11 *(ii) uniform for all packages of substantially the same*
12 *size; and*

13 *(D) shall be so placed that the lines of printed*
14 *matter included in that statement are generally parallel*
15 *to the base on which the package rests as it is designed*
16 *to be displayed.*

17 *(4) For purposes of paragraph (3)(A)(ii) of this*
18 *subsection, the term “random package” means a package*
19 *which is one of a lot, shipment, or delivery of packages of*
20 *the same consumer commodity with varying weights, that*
21 *is, packages with no fixed weight pattern.*

22 *(b) No person subject to the prohibition contained in*
23 *section 3 shall distribute or cause to be distributed in com-*
24 *merce any packaged consumer commodity if any qualify-*
25 *ing words or phrases appear in conjunction with the separate*

1 statement of the net quantity of contents required by sub-
2 section (a), but nothing in this subsection or in paragraph
3 (2) of subsection (a) shall prohibit supplemental state-
4 ments, at other places on the package, describing in non-
5 deceptive terms the net quantity of contents: Provided, That
6 such supplemental statements of net quantity of contents
7 shall not include any term qualifying a unit of weight, meas-
8 ure, or count that tends to exaggerate the amount of the
9 commodity contained in the package.

10 ADDITIONAL REGULATIONS

11 SEC. 5. (a) The authority to promulgate regulations
12 under this Act is vested in (A) the Secretary of Health,
13 Education, and Welfare (referred to hereinafter as the "Sec-
14 retary") with respect to any consumer commodity which is
15 a food, drug, device, or cosmetic, as each such term is defined
16 by section 201 of the Federal Food, Drug, and Cosmetic Act
17 (21 U.S.C. 321); and (B) the Federal Trade Commission
18 (referred to hereinafter as the "Commission") with respect
19 to any other consumer commodity.

20 (b) If the promulgating authority specified in this sec-
21 tion finds that, because of the nature, form, or quantity of a
22 particular consumer commodity, or for other good and suf-
23 ficient reasons, full compliance with all the requirements
24 otherwise applicable under section 4 of this Act is imprac-
25 ticable or is not necessary for the adequate protection of

1 consumers, the Secretary or the Commission (whichever the
2 case may be) shall promulgate regulations exempting such
3 commodity from those requirements to the extent and under
4 such conditions as the promulgating authority determines to
5 be consistent with section 2 of this Act.

6 (c) Whenever the promulgating authority determines
7 that regulations containing prohibitions or requirements other
8 than those prescribed by section 4 are necessary to prevent
9 the deception of consumers or to facilitate value comparisons
10 as to any consumer commodity, such authority shall promul-
11 gate with respect to that commodity regulations effective to—

12 (1) establish and define standards for characteriza-
13 tion of the size of a package enclosing any consumer com-
14 modity, which may be used to supplement the label
15 statement of net quantity of contents of packages contain-
16 ing such commodity, but this paragraph shall not be con-
17 strued as authorizing any limitation on the size, shape,
18 weight, dimensions, or number of packages which may
19 be used to enclose any commodity;

20 (2) require, on the label of any package of a con-
21 sumer commodity which bears a representation as to the
22 number of servings of such commodity contained in such
23 package, a statement of the net quantity (in terms of
24 weight, measure, or numerical count) of each such
25 serving;

1 (3) regulate the placement upon any package con-
2 taining any commodity, or upon any label affixed to such
3 commodity, of any printed matter stating or representing
4 by implication that such commodity is offered for retail
5 sale at a price lower than the ordinary and customary
6 retail sale price or that a retail sale price advantage is
7 accorded to purchasers thereof by reason of the size of
8 that package or the quantity of its contents;

9 (4) require that the label on each package of a
10 consumer commodity (other than one which is a food
11 within the meaning of section 201(f) of the Federal
12 Food, Drug, and Cosmetic Act) bear (A) the common
13 or usual name of such consumer commodity, if any, and
14 (B) in case such consumer commodity consists of two or
15 more ingredients, the common or usual name of each
16 such ingredient listed in order of decreasing predomi-
17 nance, but nothing in this paragraph shall be deemed to
18 require that any trade secret be divulged; or

19 (5) prevent the nonfunctional-slack-fill of packages
20 containing consumer commodities.

21 For purposes of paragraph (5) of this subsection, a package
22 shall be deemed to be nonfunctionally slack-filled if it is filled
23 to substantially less than its capacity for reasons other than
24 (A) protection of the contents of such package or (B) the

1 requirements of machines used for enclosing the contents in
2 such package.

3 (d) Whenever the Secretary of Commerce determines
4 that there is undue proliferation of the weights, measures, or
5 quantities in which any consumer commodity or reasonably
6 comparable consumer commodities are being distributed in
7 packages for sale at retail and such undue proliferation im-
8 pairs the reasonable ability of consumers to make value
9 comparisons with respect to such consumer commodity or
10 commodities, he shall request manufacturers, packers, and
11 distributors of the commodity or commodities to participate
12 in the development of a voluntary product standard for such
13 commodity or commodities under the procedures for the de-
14 velopment of voluntary products standards established by
15 the Secretary pursuant to section 2 of the Act of March 3,
16 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such
17 procedures shall provide adequate manufacturer, packer, dis-
18 tributor, and consumer representation.

19 (e) If (1) after one year after the date on which the
20 Secretary of Commerce first makes the request of manu-
21 facturers, packers, and distributors to participate in the
22 development of a voluntary product standard as provided in
23 subsection (d) of this section, he determines that such a
24 standard will not be published pursuant to the provisions of

1 such subsection (d), or (2) if such a standard is published
2 and the Secretary of Commerce determines that it has not
3 been observed, he shall promptly report such determination to
4 the Congress with a statement of the efforts that have been
5 made under the voluntary standards program and his recom-
6 mendation as to whether Congress should enact legislation
7 providing regulatory authority to deal with the situation in
8 question.

9 PROCEDURE FOR PROMULGATION OF REGULATIONS

10 SEC. 6. (a) Regulations promulgated by the Secretary
11 under section 4 or section 5 of this Act shall be promulgated,
12 and shall be subject to judicial review, pursuant to the pro-
13 visions of subsections (e), (f), and (g) of section 701 of
14 the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371
15 (e), (f), and (g)). Hearings authorized or required for
16 the promulgation of any such regulations by the Secretary
17 shall be conducted by the Secretary or by such officer or em-
18 ployee of the Department of Health, Education, and Welfare
19 as he may designate for that purpose.

20 (b) Regulations promulgated by the Commission under
21 section 4 or section 5 of this Act shall be promulgated, and
22 shall be subject to judicial review, by proceedings taken in
23 conformity with the provisions of subsections (e), (f), and
24 (g) of section 701 of the Federal Food, Drug, and Cosmetic
25 Act (21 U.S.C. 371 (e), (f), and (g)) in the same man-

ner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions

1 of this Act, or the regulations issued pursuant to this Act,
2 shall be deemed to be misbranded within the meaning of
3 chapter III of the Federal Food, Drug, and Cosmetic Act,
4 but the provisions of section 303 of that Act (21 U.S.C. 333)
5 shall have no application to any violation of section 3 of
6 this Act.

7 (b) Any violation of any of the provisions of this Act,
8 or the regulations issued pursuant to this Act, with respect
9 to any consumer commodity which is not a food, drug, device,
10 or cosmetic, shall constitute an unfair or deceptive act or
11 practice in commerce in violation of section 5(a) of the Fed-
12 eral Trade Commission Act and shall be subject to enforce-
13 ment under section 5(b) of the Federal Trade Commission
14 Act.

15 (c) In the case of any imports into the United States
16 of any consumer commodity covered by this Act, the pro-
17 visions of sections 4 and 5 of this Act shall be enforced by
18 the Secretary of the Treasury pursuant to section 801 (a)
19 and (b) of the Federal Food, Drug, and Cosmetic Act (21
20 U.S.C. 381).

21 **REPORTS TO THE CONGRESS**

22 **SEC. 8.** Each officer or agency required or authorized
23 by this Act to promulgate regulations for the packaging or
24 labeling of any consumer commodity, or to participate in the
25 development of voluntary product standards with respect

1 to any consumer commodity under procedures referred to in
2 section 5(d) of this Act, shall transmit to the Congress in
3 January of each year a report containing a full and complete
4 description of the activities of that officer or agency for the
5 administration and enforcement of this Act during the pre-
6 ceding fiscal year.

7 COOPERATION WITH STATE AUTHORITIES

8 SEC. 9. (a) A copy of each regulation promulgated
9 under this Act shall be transmitted promptly to the Secretary
10 of Commerce, who shall (1) transmit copies thereof to all
11 appropriate State officers and agencies, and (2) furnish to
12 such State officers and agencies information and assistance
13 to promote to the greatest practicable extent uniformity in
14 State and Federal regulation of the labeling of consumer
15 commodities.

16 (b) Nothing contained in this section shall be construed
17 to impair or otherwise interfere with any program carried
18 into effect by the Secretary of Health, Education, and Wel-
19 fare under other provisions of law in cooperation with State
20 governments or agencies, instrumentalities, or political sub-
21 divisions thereof.

22 DEFINITIONS

23 SEC. 10. For the purposes of this Act—

24 (a) The term “consumer commodity”, except as other-
25 wise specifically provided by this subsection, means any food,

1 drug, device, or cosmetic (as those terms are defined by the
2 Federal Food, Drug, and Cosmetic Act), and any other
3 article, product, or commodity of any kind or class which is
4 customarily produced or distributed for sale through retail
5 sales agencies or instrumentalities for consumption by indi-
6 viduals, or use by individuals for purposes of personal care
7 or in the performance of services ordinarily rendered within
8 the household, and which usually is consumed or expended
9 in the course of such consumption or use. Such term does
10 not include—

11 (1) any meat or meat product, poultry or poultry
12 product, or tobacco or tobacco product;

13 (2) any commodity subject to packaging or label-
14 ing requirements imposed by the Secretary of Agri-
15 culture pursuant to the Federal Insecticide, Fungicide,
16 and Rodenticide Act, or the provisions of the eighth
17 paragraph under the heading "Bureau of Animal Indus-
18 try" of the Act of March 4, 1913 (37 Stat. 832-833;
19 21 U.S.C. 151-157), commonly known as the Virus-
20 Serum-Toxin Act;

21 (3) any drug subject to the provisions of section
22 503(b)(1) or 506 of the Federal Food, Drug, and
23 Cosmetic Act (21 U.S.C. 353(b)(1) and 356);

24 (4) any beverage subject to or complying with
25 packaging or labeling requirements imposed under the

Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

(c) The term "label" means any written, printed, or

1 *graphic matter affixed to any consumer commodity or affixed*
2 *to or appearing upon a package containing any consumer*
3 *commodity.*

4 (d) *The term “person” includes any firm, corporation,*
5 *or association.*

6 (e) *The term “commerce” means (1) commerce be-*
7 *tween any State, the District of Columbia, the Common-*
8 *wealth of Puerto Rico, or any territory or possession of the*
9 *United States, and any place outside thereof, and (2) com-*
10 *merce within the District of Columbia or within any territory*
11 *or possession of the United States not organized with a legis-*
12 *lative body, but shall not include exports to foreign countries.*

13 (f) *The term “principal display panel” means that part*
14 *of a label that is most likely to be displayed, presented, shown,*
15 *or examined under normal and customary conditions of dis-*
16 *play for retail sale.*

17 *SAVING PROVISION*

18 *SEC. 11. Nothing contained in this Act shall be con-*
19 *strued to repeal, invalidate, or supersede—*

20 (a) *the Federal Trade Commission Act or any*
21 *statute defined therein as an antitrust Act;*

22 (b) *the Federal Food, Drug, and Cosmetic Act; or*

23 (c) *the Federal Hazardous Substances Labeling*
24 *Act.*

EFFECT UPON STATE LAW

1

2 *SEC. 12. It is hereby declared that it is the express intent*
3 *of Congress to supersede any and all laws of the States or*
4 *political subdivisions thereof insofar as they may now or*
5 *hereafter provide for the labeling of the net quantity of contents*
6 *of the package of any consumer commodity covered by this*
7 *Act which are less stringent than or require information dif-*
8 *ferent from the requirements of section 4 of this Act or regu-*
9 *lations promulgated pursuant thereto.*

10

EFFECTIVE DATE

11 *SEC. 13. This Act shall take effect on July 1, 1967:*
12 *Provided, That the Secretary (with respect to any consumer*
13 *commodity which is a food, drug, device, or cosmetic, as*
14 *those terms are defined by the Federal Food, Drug, and*
15 *Cosmetic Act), and the Commission (with respect to any*
16 *other consumer commodity) may by regulation postpone, for*
17 *an additional twelve-month period, the effective date of this*
18 *Act with respect to any class or type of consumer commodity*
19 *on the basis of a finding that such a postponement would be*
20 *in the public interest.*

80TH CONGRESS
2^D SESSION

H. R. 15440

[Report No. 2076]

A BILL

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

By Mr. STAGGERS

JUNE 2, 1966

Referred to the Committee on Interstate and Foreign
Commerce

SEPTEMBER 23, 1966

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Oct. 3, 1966

16. TRANSPORTATION. Sen. Pell inserted the first report on the High Speed Ground Transportation Act of 1965, which has just been released by the Commerce Dept. pp. 23840-44

HOUSE

17. PACKAGING AND LABELING. Passed under suspension of the rules S. 985, to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging and labeling of certain consumer commodities distributed in such commerce. A similar bill, H. R. 15440 was tabled. pp. 23856-71, 23967
18. GRAIN STORAGE. Passed under suspension of the rules H. R. 12360, to amend the Agricultural Act of 1949 to permit the sale of grain storage facilities to public and private nonprofit agencies and organizations. pp. 23894-6
19. FISH PROTEIN. Passed S. 2720, to authorize the Interior Department to develop practicable and economic means for production by the commercial fishing industry of fish protein concentrate, with an amendment to substitute the language of a similar bill, H. R. 14699, which was passed earlier as reported. H. R. 14699 was tabled. pp. 23910-4
20. CHILD SAFETY. Passed under suspension of the rules S. 3298, to amend the Federal Hazardous Substances Labeling Act to ban hazardous toys and articles intended for children, and other articles so hazardous as to be dangerous in the household regardless of labeling, and to apply to unpackaged articles intended for household use (pp. 23922-4). This bill was reported with amendments on Oct. 1 during adjournment (H. Rept. 2166)(p. 23974).
21. ANIMAL DRUGS. Passed under suspension of the rules H. R. 16474, to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to consolidate certain provisions assuring the safety and effectiveness of new animal drugs (pp. 23929-34). This bill was reported with amendments on Oct. 1 during adjournment (H. Rept. 2168)(p. 23974).
22. VETERINARY FACILITIES. Passed under suspension of the rules H. R. 3348, to authorize a three-year program of grants for construction of veterinary medical education facilities (pp. 23928-29). This bill was reported with amendments on Oct. 1 during adjournment (H. Rept. 2167)(p. 23974).
23. AIR POLLUTION. Passed under suspension of the rules S. 3112, the Clean Air Act amendments (pp. 23873-76). This bill was reported with amendments on Oct. 1 during adjournment (H. Rept. 2170)(p. 23974).
24. TAXATION. Reported with amendment H. R. 6413, to provide for the withdrawal of wine from bonded wine cellars without payment of tax, when rendered unfit for beverage use (H. Rept. 2173). p. 23974
25. AWARDS. Passed with/out amendment S. 2463, to provide a uniform set of standards and procedures for the acceptance of gifts and decorations offered by foreign governments to persons employed by the U. S. Government. This bill will now be sent to the President. p. 23848
26. HOLIDAYS. Passed without amendment H. R. 15699, to establish a Commission on National Observances and Holidays to consider proposals for such occasions and make recommendations to the President. pp. 23849-50

27. RESEARCH. Passed as reported S. 1674, to authorize the Secretary of the Interior to make disposition of geothermal steam and associated geothermal resources. pp. 23850-4
Passed as reported S. 3460, to authorize the Secretary of the Interior to enter into contracts for scientific and technological research. pp. 23899-900
28. RECREATION. Passed under suspension of the rules S. 1607, to establish the Point Reyes National Seashore in Calif. pp. 23897-9
Began consideration of H. R. 13447, to authorize the Secretary of the Interior in cooperation with the States to preserve, protect, develop, restore, and make accessible estuarine areas of the Nation which are valuable for sport and commercial fishing, wildlife conservation, recreation, and scenic beauty. pp. 23903-10
29. CONTRACTORS. Passed under suspension of the rules H. R. 4497, to require certain contractors with the U. S. to give an affidavit with respect to payment of subcontractors. pp. 23889-94
30. ELECTRIFICATION; SALT WATER. Passed under suspension of the rules S. 3807, to authorize the Atomic Energy Commission to enter into a cooperative arrangement for a large-scale combination nuclear-power and water-desalting project. A similar bill, H. R. 17558, was tabled. pp. 23876-80
31. INTERGOVERNMENTAL RELATIONS. Passed as reported H. R. 15335, to amend the act to establish an Advisory Commission on Intergovernmental Relations. pp. 23900-2
32. JELLYFISH. Passed as reported H. R. 11475, to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the U. S. pp. 23902-3
33. TRADE NEGOTIATIONS. Rep. Nelsen urged that this Department "insist on fair treatment for American farmers" at the Geneva trade talks and that farmers be "kept abreast of negotiations developments." p. 23949
34. COMMUNITY DEVELOPMENT. Rep. Evins, Tenn., spoke in support of the community development districts bill. pp. 23955-9
35. WATER POLLUTION. Rep. Helstoski spoke in support of the proposed Water Pollution Control Act and inserted an editorial, "The Next Long Step Against Pollution." pp. 23968-9

ITEMS IN APPENDIX

36. TAXATION. Speech in the House by Rep. Vanik in support of the investment credit bill. p. A5071
37. PERSONNEL CEILINGS. Extension of remarks of Rep. Henderson stating that the "number of civilian employees on the Federal payroll has been rising each month for more than five years" and inserting his letter to the Budget Bureau concurring in their directive to hold down employment. p. A5073
38. POVERTY. Speech in the House by Rep. Vivian favoring poverty programs which are of benefit to migratory workers. pp. A5075-6
Speech in the House by Rep. Philbin urging that efforts be made to spend available poverty funds wisely. p. A5095
Rep. Feighan inserted an article critical of the "lax" administration of the community action programs. pp. A5095-6

IMMIGRATION AND NATIONALITY ACT

The Clerk called the bill (S. 2829) to amend section 301(a)(7) of the Immigration and Nationality Act.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. This concludes the call of the Consent Calendar.

PAN AMERICAN INSTITUTE OF GEOGRAPHY AND HISTORY

Mr. SELDEN. Mr. Speaker, I ask unanimous consent to return for immediate consideration to Consent Calendar No. 321, the bill (S.J. Res. 108) to amend the joint resolution providing for membership of the United States in the Pan American Institute of Geography and History and to authorize appropriations therefor.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

Mr. HALL. Mr. Speaker, reserving the right to object, this bill on the Consent Calendar has been before the House on many occasions. It has been put over by the official objectors simply because there are no departmental reports printed in the committee report of the bill. There is a list of witnesses who testified, but whether they were in opposition or in support of the bill has not been indicated. I would ask the gentleman from Alabama whether or not he does have information available indicating departmental support as required by the working agreement of the Objectors Committee.

Mr. SELDEN. Mr. Speaker, will the gentleman yield?

Mr. HALL. I shall be delighted to yield to the gentleman from Alabama [Mr. SELDEN].

Mr. SELDEN. Mr. Speaker, I want to say to the gentleman from Missouri [Mr. HALL] that I have a letter in my hand, dated August 31, 1965, from the Secretary of State, requesting the passage of this legislation, and stating in the letter that the submission of the legislation has been approved by the Bureau of the Budget as being consistent with the administration's objectives.

The letter reads as follows:

The Honorable JOHN W. McCORMACK,
Speaker of the House of Representatives.

DEAR MR. SPEAKER. I submit herewith a proposed draft amendment to the joint resolution, as previously amended, providing for membership and participation by the United States in the Pan American Institute of Geography and History.

The proposed amendment provides for removal of the statutory limitation of \$50,000 on the United States annual assessed contribution to the Institute. The basis of assessment was changed in 1963, by a Special Assembly of the Institute, from gross population figures to ability to pay. This action raised the United States percentage of con-

tribution from 33.61 per cent to 60.62 per cent. Further, the Institute's 1965 budget was increased to \$250,000. Because of the existing limitation, the United States is unable to pay its full assessment for 1965 of \$151,550.

The draft legislation also provides authority to meet the expenses of the U.S. National Section of the Institute, currently estimated at \$3,000 per annum. Meetings of the Section can be attended now only by members residing in Washington, unless personal funds are used to perform official functions.

A memorandum setting forth the considerations which lead me to propose enactment of the draft amendment is enclosed.

The submission of the proposed legislation has been approved by the Bureau of the Budget as being consistent with the Administration's objectives.

Sincerely yours,

DEAN RUSK.

Mr. Speaker, may I also add a brief comment about the Institute and why I believe this joint resolution should pass. The Pan American Institute of Geography and History was established by the Inter-American Conference in Havana in 1928 and has its headquarters in Mexico City. The United States has been a member since 1935. The institute is a specialized agency of the Organization of American States and has commissions on cartography, geography, and history, and a special Committee on Geophysical Sciences. Its members are the members of the Organization of American States, plus Canada. The institute serves as a forum for international exchange of scientific information and as a planning body for cooperative research.

Initially, contributions to the institute's budget were based on population. Under that formula, the U.S. contribution amounted to 33.61 percent of the total. In 1963, a special general assembly of the institute voted to change annual assessments from a scale based on population to one based on ability to pay, a formula consistent with that used in all other Inter-American agencies. Further, the institute's 1965 budget was increased to \$250,000 to enable the PAIGH to undertake a number of new projects.

Under the new formula and new budget, the U.S. assessment thus became \$151,550. Since the ceiling on U.S. contributions to the institute was \$50,000, the U.S. delegate voted against the new provisions. Nevertheless, executive agency witnesses in hearing before the Subcommittee on Inter-American Affairs, approved both the changed formula for assessing members of the PAIGH as well as the increased budget.

Mr. Speaker, Senate Joint Resolution 108 authorizes such sums, not to exceed \$90,300 annually, as may be required, for the payment by the United States as its share of the institute's expenses, and such additional sums as may be needed annually for the payment of all necessary expenses incident to U.S. participation in the activities of the institute.

The figure, \$90,300, is based on 60.2 percent of the \$150,000 annual budget of the institute, which was the amount of the budget prior to the increase. In authorizing the amount of \$90,300, the committee feels that the Congress should recognize the new scale of assessments

adopted by the institute as it is consistent with the method of determining members' contributions used by all other Inter-American organizations. However, we do not believe that we should support at this time the increased budget of the institute.

The action projects proposed by the institute, which inspired the larger budget, may have merit. But the committee believes that when international organizations in which the United States participates contemplate sizable increases in their operating costs, the U.S. representative should notify the appropriate committees of Congress in a timely fashion to permit a full presentation and consideration of the proposals. This was not done in this case.

Mr. Speaker, Senate Joint Resolution 108 was acted upon favorably by the Committee on Foreign Affairs.

Mr. HALL. So, Mr. Speaker, the gentleman from Alabama feels that both the Department of State and the Bureau of the Budget, a branch of the executive department, favors passage of Senate Joint Resolution 108, as indicated in report No. 1743, Consent Calendar No. 321?

Mr. SELDEN. That is correct.

Mr. HALL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 108

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 31, 1954 (68 Stat. 1008), is hereby amended by deleting "\$50,000" in section (b) and substituting "\$75,000" and adding "(c) Such additional sums as may be needed annually for the payment of all necessary expenses incident to participation by the United States in the activities thereof."

With the following committee amendment:

Strike out all after the resolving clause and insert in lieu thereof the following:

"That Public Resolution 42, Seventy-fourth Congress, approved August 2, 1935 (22 U.S.C. 273), is amended to read as follows: "That in order to meet the obligations of the United States as a member of the Pan American Institute of Geography and History, these are authorized to be appropriated to the Department of State—

"(1) such sums, not to exceed \$90,300 annually, as may be required for the payment by the United States of its share of the expenses of the Institute, as apportioned in accordance with the statutes of the Institute; and

"(2) such additional sums as may be needed annually for the payment of all necessary expenses incident to participation by the United States in the activities of the Institute."

The committee amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 1035, was laid on the table.

EXTEND PERIOD FOR PAYMENTS IN LIEU OF TAXES

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent to return for immediate consideration to Consent Calendar No. 378, the bill (H.R. 14249) to extend for 2 years the period for which payments in lieu of taxes may be made with respect to certain real property transferred by the Reconstruction Finance Corporation and its subsidiaries to other Government departments.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. PELLY. Mr. Speaker, reserving the right to object, first I would like to say to the gentleman from California [Mr. HOLIFIELD] that this bill, as I understand it, involves an expenditure in excess of \$5 million, and the General Services Administration has registered opposition to it.

On that account, I ask unanimous consent that the bill be passed over without prejudice.

Mr. HOLIFIELD. Mr. Speaker, will the gentleman yield?

Mr. PELLY. I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Speaker, I would like to have the opportunity of explaining this bill.

Mr. Speaker, this bill has been passed before. It has to do with certain properties that are owned and which are in the hands of the General Services Administration and also in the hands of the Department of Defense.

Mr. Speaker, the GSA has 3 properties and the Department of Defense has 29 industrial-type facilities. The Budget Bureau and the Department of Defense approve the bill, and I am sure the GSA has objected with reference to the three properties which they still control. Most of these properties are left over from the old Reconstruction Finance Corporation. The denial of the passage or the extension of this bill means that all of those communities where these properties are located will be denied their customary "in lieu of" tax amounts.

Mr. Speaker, it is true that the enactment of this legislation will cost about \$3 million—it is estimated to cost \$3.6 million to pay these payments in lieu of taxes.

However, Mr. Speaker, in many instances these properties represent a burden upon the local communities. None of them are located in the congressional district which it is my honor to represent, incidentally, but many of the Members of other areas do have such properties located within the districts which they represent.

Mr. PELLY. Mr. Speaker, the provisions of this bill do not comply with the rules that have been established by a group of nonpartisan members of the Objectors Committee and, therefore, I feel that regardless of the merits of the bill, it is certainly of sufficient size and importance that it should be debated and come up under a rule with general debate.

Therefore, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FAIR PACKAGING AND LABELING ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, with an amendment which contains the language of the bill H.R. 15440, as reported by the Committee on Interstate and Foreign Commerce.

The Clerk read as follows:

S. 985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Packaging and Labeling Act".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label; and

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) (i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or, in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

(iii) if on a package labeled in terms of linear measure, shall be expressed in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

(iv) if on a package labeled in terms of measure of area, shall be expressed in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(4) For purposes of paragraph (3) (A) (ii) of this subsection, the term "random package" means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission

(whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) require, on the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(4) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and (B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

Prevent the nonfunctional-slack-fill of packages containing consumer commodities. For purposes of paragraph (5) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

(e) If (1) after one year after the date on which the Secretary of Commerce first makes

the request of manufacturers, packers, and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purposes of this Act—

(a) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of section 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b) (1) and 356);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity

to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term "person" includes any firm, corporation, or association.

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Federal Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on July 1, 1967: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from West Virginia is recognized for 20 minutes.

Mr. STAGGERS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the bill H.R. 15440 is labeled the "fair packaging and labeling bill," but I would call it the housewives' bill or a bill for housewives because it was made for them. If they had controlled the fate of this bill, I am sure it would be about 10 times as strong as it is. But in its present form I think it is a good bill, and deserves the consideration and vote of every Member of the House.

This bill was reported from the committee without a dissenting vote. This circumstance may come as a surprise to many Members of the House, since many of you may have received communications in opposition to this legislation. This opposition was based on some provisions which were contained in the bill as it was originally introduced. These provisions have been eliminated.

Our committee held 18 days of hearings on the legislation reported. The legislation accomplishes the twin objectives of protecting the American consumer without hurting American industry.

Stated in simple terms, this bill recognizes that consumers need facts to get the most for their money. As written, this bill will give consumers the facts about the packages they buy. And it will do so without impairing in any way the smooth functioning of American industry.

In one sense, H.R. 15440 is in a long tradition of legislation enacted by Congress. Like the Fur Products Labeling Act, the Flammable Fabrics Act, the Textile Fiber Products Identification Act, this bill improves the information available through labeling. In another sense, however, this bill is historic. For it recognizes that Government has a role in making value comparisons easier for the consumer.

Such ability to compare prices is necessary at all times.

But it is especially helpful today—at a time when every weapon must be employed to combat inflationary pressures.

This bill is one such weapon. It is needed now.

The choice available to the American shopper has never been greater: more than 8,000 commodities today line the supermarket shelves. The variety and quality of today's products are a credit to industry in our system of free enterprise.

Progress and innovation have been enormous and beneficial to all. The creation of such a great choice of competing products, however, has brought with it widespread confusion. This confusion arises from the shopper's inability to determine from labels of packages exactly what they are buying and how much they are paying for one product as compared to a similar product.

Testimony over the past 5 years has shown that this confusion of American consumers is primarily due to a lack of uniformity in the myriad of labels used to provide information. The marketplace, in its dramatic growth in making more and more products available to the consumer, has become a complex place of business where it is no easy task for a housewife to do her weekly shopping and to get the most for her money.

Existing laws are inadequate to meet the problem. The very few provisions under present law concerning packaging and labeling do not begin to accomplish the purposes of H.R. 15540. Moreover, these few provisions under present law must be enforced on a case-by-case basis. In view of the vast number of commodities on supermarket shelves today, a case-by-case procedure is totally ineffective. Therefore, existing law not only falls short of the purposes of H.R. 15440 but it is procedurally impracticable.

The bill contains two types of provisions. First, mandatory provisions and, second, discretionary provisions. The mandatory provisions direct the HEW and FTC to promulgate regulations to assure that package labels disclose the identity of the product and the manufacturer; that they bear a separate statement of the net quantities of content located on the principal display panel; that this statement be in letters or numerals which bear a proper relationship to the size of the area of such panel; and that the statement of quantity be expressed both in ounces and in the largest full unit of quarts, pints, and pounds, with any remainder in terms of ounces or fractions of the whole unit.

The discretionary provisions authorize the HEW and the FTC to make regulations to prohibit nonfunctional slackfill of any packages, to define such descriptive terms as "small," "medium," and "large," and to require that any statement with regard to "servings" be accompanied by a statement setting forth the net quantity in terms of weight, measure, or numerical count.

These agencies may also regulate such promotions as "cents-off" or "economy size," and may require that ingredients be listed in the order of decreasing predominance without divulging trade secrets.

Finally, the Secretary of Commerce is authorized to call upon manufacturers of consumer commodities to develop voluntary product standards and to report to the Congress if no such standards have been worked out in compliance with his request.

This provision, calling for purely voluntary effort, replaces earlier provisions authorizing the FTC and HEW to establish binding standards of weights and measures.

In 1926, the Department of Commerce began working with industry to establish voluntary product standards for the benefit of producers, distributors, and consumers alike. Since that time about 500 standards have been published. Under the voluntary product standards program of the Department of Commerce a standard review committee is set up for each commodity standard, composed of qualified representatives of producers, distributors, and consumers or users.

After a review of a proposed standard the committee, upon three-fourths vote of all of its members, may recommend acceptance. The proposed standard is then distributed to additional producers, distributors, users, consumers, appropriate testing laboratories, and interested

State and Federal agencies, and to any others upon request.

If there is a consensus that the recommended standard be adopted, it is then published as a product standard by the Department.

There is also provision for continuing review and for revision or amendment of any standard if "the standard or any part of it is being used to mislead consumers or is found to be against the best interest of consumers."

H.R. 15440 expressly provides for utilization of this successful, well-established program. It is the responsibility under this bill for the Secretary of Commerce to determine when a proliferation of weights and quantities impairs the consumers' ability to make a value comparison. Upon such a finding, the Secretary would request industry to seek, through the voluntary procedure, a standard to eliminate superfluous weights and quantities.

If after 1 year industry fails to obtain agreement on a standard, or if the Secretary finds that a voluntary standard is not being observed, he is directed to report to Congress with legislative recommendations.

Mr. Speaker, when the Congress considered legislation to provide more adequate information for investors with regard to securities and to establish for that purpose a Securities and Exchange Commission, many Members argued that such legislation was not needed.

Today, many voices are raised against the fair packaging and labeling legislation and the same argument is being made that this legislation is not needed. This argument has no more validity here than it had in years gone by with regard to the Securities and Exchange Act, and I predict that a few years from now the fair packaging and labeling legislation will be considered as indispensable to fair marketing of consumer products as the securities legislation is considered today with regard to marketing of securities.

The committee has strengthened the provisions of the Senate bill in several respects. In one respect, however, the Senate bill provided regulatory authority to prevent proliferation of weights and measures in which consumer goods are packaged. My personal preference would have been for retaining such regulatory authority. Our committee, however, in exercising its judgment determined to eliminate that authority and to provide that the industry should be given a chance to adopt measures which would reduce the present proliferation of weights and measures in packages.

It is my sincere hope that the industry will undertake this important task. If industry does not live up to our expectations, then it will remain for the Congress to act and to give appropriate authority to the regulatory agencies to accomplish this task.

Our committee worked hard on this legislation. We had longer hearings than we ever had on any bill referred to our committee.

After having worked day in and day out on important legislation, often far

into the night, it is no surprise that members wore thin, especially when many Members felt that they should be back home campaigning instead of remaining here in Washington. Under these difficult circumstances it is all the more gratifying that our committee managed to report this highly controversial and emotional legislation without a dissenting vote, and I want to take this occasion to express to the Members my great appreciation for their patience and forbearance, and thank them for a job well done.

Mr. Speaker, as I have emphasized before, this legislation was reported by our committee without a dissenting vote, and I trust that the House will support the unanimous judgment of the committee.

Although I speak as author of this bill before us, I cannot fail to note that 41 of my distinguished colleagues have introduced similar legislation. Thus the sense of my committee is clear, the sense of many of my colleagues is clear—and certainly the sense of the Nation's consumers is also clear: All want this bill. Consumers have spoken out for this legislation for years. Now is the time for us to give them their bill.

As I said at the beginning, I want to call it the housewives of America bill and I repeat my contention that if they were writing the bill, they would have made it a much stronger bill. Nevertheless, I believe it is a good bill and one that deserves the consideration and the support of every Member of the House.

Mr. NELSEN. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. NELSEN. I think it should be made clear as to some of the provisions of the bill, since the gentleman implied that the housewives would have wanted a tougher bill, yet the gentleman in his remarks has indicated that this is a good bill which helps the housewife but does not hurt industry. In your judgment did the bill hurt industry in its original form, because I think we would like to know that, whether the chairman of the committee is in complete agreement that the bill is a good bill in the original instance.

Mr. STAGGERS. As the gentleman from Minnesota knows, of all the witnesses who testified, and I believe there were about 40 of them, the great predominance of those witnesses were from industry and they said that one provision would make their costs go up and that then they would have to increase the price to the consumers of the Nation.

I do not believe that these statements were ever proved conclusively. I do not believe that that actually would have been the case. But those provisions were removed from the bill so that those objections no longer apply.

Mr. NELSEN. I would like to make one further comment and perhaps the chairman would have a comment to make relative to it. With reference to the provision on labeling, you will recall that one amendment made some provision in the event that if a State law was more stringent than the Federal require-

ments, the State law would apply. In my judgment the Federal regulations should be adequate. If we do put this provision in, if this amendment remains in the bill, the act, in my judgment, would provide an open door for the proliferation of labeling which could conceivably be a tremendous handicap and a tremendous problem in the processing of a food product, because you might well wind up with 50 labels instead of just 1 or 2 or 3 labels.

The Senate bill, as I recall, did not have this provision in it and the House bill does have it.

Mr. STAGGERS. I agree with the gentleman. If the gentleman will recall at the time it was brought up, I said it might cause a great deal of confusion along that line. But I also might remind the gentleman at this time that the committee made an agreement that we would stand by the bill as it came out of the committee.

We might be able in some way to work this out. I do not know. I hope that there will be no conference. I hope that the Senate will adopt our bill the way it is. But if there should be a conference, it is a simple amendment and it might be worked out. I just do not know.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. HALL. Do I understand from the colloquy that has just taken place that the distinguished chairman of the committee is telling us the position of the House is a very strong position and if we do have to resort to a conference with the other body that we will not recede from our position so far as the unanimous action of the committee is concerned? And especially so far as the leader sales are concerned and the 3-cents-off sales or the type of labeling or excessive labeling is concerned?

We all know that this session is drawing to a close. I think if the House maintains its position, we would be in a very strong position if we do have to go to conference if we will just stand firm. I would appreciate the gentleman's further confirmation of our position.

Mr. STAGGERS. I would like to assure the gentleman from Missouri that it will be the intention of those who would be on the conference to stand fast, especially with reference to the major provisions of this bill. I would say—and I repeat—that it would be the intention of those on the conference committee to stand fast on what the House of Representatives did.

Mr. HALL. I appreciate the gentleman's statement.

I want to say that this bill as it comes out of the committee and as amended appears to me to certainly be reasonable legislation. Most of the compulsory features have been very wisely taken out after extensive testimony. But I would also like to point out that there are at least four other bills coming up under suspensions of the rules today dealing with labeling and/or fair practices or protection of or for the good of the peo-

ple, most of which comes from the committee of the distinguished gentleman from West Virginia and certainly most of which is getting right down to the nub of control of people's personal affairs and representation whether it be in grocery store goods, or whether it be in drug goods, or children's toys, or whatever it might be.

Mr. STAGGERS. Mr. Speaker, I yield myself 3 additional minutes.

Mr. POOL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

Mr. POOL. Mr. Speaker, in line with what the gentleman from Missouri was talking about a moment ago, I wish to point out that I just came from Texas, where I talked to my constituents. The housewives there are up in arms about the prices of commodities in the stores. I would urge the gentleman from West Virginia in the conference to be sure that none of these provisions will increase the prices of these commodities when we write this bill.

Mr. STAGGERS. We are hopeful that it will decrease prices on a lot of items and, in addition, that it will remove a great deal of confusion from the marketplace.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentlewoman from Missouri.

WE CAN VOICE A MILD CHEER

Mrs. SULLIVAN. Mr. Speaker, with all due respects to the members of the Committee on Interstate and Foreign Commerce who have recommended this bill for House consideration and passage, there is so little in the bill which does anything of any great importance that opposition to it, in my opinion, is tilting at windmills.

My complaint is that it does so little, not that it goes too far. Naturally, I will vote for it, but I can hardly say that it gives me any strong feeling of striking a blow for the consumer.

It will be of some help to consumers in the supermarkets in making some choices as between competing products, or between different quantities of the same product.

The Food, Drug, and Cosmetic Act already provides that products under that act must conform to requirements generally similar to those laid out in this bill. The only difference of any real significance is that the courts have held the language of the present law to be somewhat vague. I proposed a simple amendment to the Food, Drug, and Cosmetic Act 5 years ago—as a minor section of H.R. 1235, my omnibus bill to rewrite that entire statute.

So what we have here, as far as foods, drugs and cosmetics are concerned, is a restating of the present law to assure greater authority to the Secretary of Health, Education, and Welfare to do what the Congress thought it gave the Government the right to do 28 years ago. Section 2 of H.R. 1235, as introduced in each of the last three Congresses, would also have taken care of that matter. The key provision is the authority to

issue regulations to carry out existing law.

PRESENT LAW SOUNDS TOUGH, BUT FAILS IN COURT TESTS

Let those who speak in opposition to the bill as some nefarious plot to give the Government dictatorial powers over packaging go back and read the labeling requirements of the Food, Drug, and Cosmetic Act of 1938, and they will find that this bill by and large merely restates and clarifies some of that same authority. The present law sounds tough, but the courts have shot some holes in that authority on reasoning that I consider rather frivolous, as if the English language does not mean what it says.

We do need additional powers to cope with the problem of deceptive packaging and inconspicuous, hard-to-read, or hard-to-find labeling information, as H.R. 1235 has been proposing for the past 5 or 6 years, and as this bill provides. This bill will also help housewives to cope with the misleading claims on the number of servings in a box or can, and the fraud of the phony "cents off" deals where the storekeeper marks up the regular price to equal the amount of the alleged savings, and the consumer ends up paying the same price he would normally pay for a product which claims to be a bargain but is not.

TEN SERVINGS? TWELVE? FOURTEEN? A CASE IN POINT

In connection with the claims on servings in a package, I would like to cite two items that were sent to me by a St. Louis housewife. This letter arrived just this morning in fact. She said that this is what "drives us crazy." She sent me the fronts of two packages of instant mashed potatoes. They are put out by the same firm, North Pacific Cannery and Packers, Inc., of Portland, Oreg. The labels on both packages show that the contents equal 3 to 4 pounds of unpeeled Idaho potatoes. Both packages state that they contain 6½ ounces net weight. One package promises 10 servings for 19 cents; the other package promises 12 to 14 servings for 29 cents.

The housewife said, "This is most inconsistent and should not be allowed." This is one problem the bill before us will help solve.

But I say this bill should have gone a great deal further than it has, to give the housewife and the consumer the information she needs on packages in order to do her purchasing intelligently.

The bill is no breakthrough of any importance to justify the kind of attacks which has been made against it. I cannot see how it would inconvenience any reputable businessman who wants to inform, not confuse, his customers.

OTHER PIECE-MEAL APPROACHES TO FOOD, DRUG, AND COSMETIC ACT

Today we are to consider, under the same shortcut, no-amendment procedure reserved for this bill, two other measures amending the Food, Drug, and Cosmetic Act. So, once again, as in previous Congresses, we are making changes in this important law in unrelated bits and pieces. I am deeply disappointed that the tremendous amount of work on

the part of the committee which went into these three separate and unrelated measures could not have been devoted instead to a comprehensive overhaul of the entire act, which is full of serious loopholes threatening the health and safety of the American people.

This is an old refrain of mine, I am afraid, but I am wondering when the legislative strategists of the Department of Health, Education, and Welfare will finally wake up to the fact that the bits-and-pieces approach, which they have fostered and encouraged over the years in preference to a frontal attack on all of the many loopholes in our basic consumer statute, is reaping a harvest of inadequate legislation which promises consumers much and gives little.

As one who has been fighting this battle for the consumer through seven Congresses—14 years—I sometimes wonder whether the Department considers its true friends to be its enemies. The degree of assistance and support and cooperation the Department has given me on H.R. 1235 is somewhere around zero. Yet my bill does not call for a single thing—or for very little—that every Secretary of that Department as far back as Secretaries Folsom and Fleming has not at some time or another asked for or indicated a need for.

THE HOUSEWIFE'S JUNGLE SAFARI

To my friends in the consumer movement who join me in support for this bill as far as it hesitantly goes, I say let us take what little we are getting here, but not consider it any great victory for consumer protection, despite the crocodile tears and cries of anguish from the food industry and others which seem to feel that when the housewife goes to the supermarket, what she is looking for is the excitement of a jungle safari.

It is a safari into a jungle all right—of deliberately confusing sizes, shapes, and net weights so that she cannot tell the better buy between two sizes of the same product made by the same manufacturer. Housewives are themselves to blame for much of the confusion—by putting up with it. But that does not make it economically moral. I will vote for this bill, and if it passes we can all voice a very mild cheer—for very little.

(Mrs. SULLIVAN asked and was given permission to revise and extend her remarks.)

Mr. SPRINGER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, fair packaging and fair labeling of consumer products for the protection of all of us as buyers and users of the myriad products created and offered by our economic system sounds like a reasonable and necessary goal. And so it is. The proponents of this legislation, however, would leave the impression from the title of the bill alone and from their testimony that this is a new concept.

One might at first believe that up to this time nothing has been done to curb slick or deceptive practices in the marketplace. One might think that the Federal Government has been required to stand by helpless while such practices ran

rampant. One might think that a bill such as H.R. 15440 is long overdue. But one would quickly change his mind when he examines the facts of the case and particularly when he listened to the administration witnesses sent to the Congress to justify this legislation. We find that the Federal Trade Commission has a very broad charter under its enabling act to ferret out and stop practices which amount to unfair methods of competition and unfair acts or practices in commerce. The Chairman of the Commission described this authority as "as broad as your imagination."

The Food and Drug Administration has wide authority to set out specific requirements for packaging and labeling of consumer goods. For example, a witness before the committee testified that section 401 of the Food, Drug, and Cosmetics Act authorizes the Secretary of Health, Education, and Welfare, when he finds that it will promote honesty and fair dealing in the interest of consumers, to promulgate regulations establishing, among other things, standards of fill of containers for foodstuffs.

Section 5 would have granted broad authority to the agencies concerned to promulgate regulations standardizing packages and the weights that might be placed therein. The proponents of this so-called Labeling and Packaging Act contended that the inability to make quick and easy price comparisons cost the housewife money.

In addition, it became clear that no study had ever been made by the proponents of this legislation to see whether or not the standardization of packages might not cost the consumer far more than present practices. In all of the propaganda used to push this bill along, it was never suggested to consumers that the solutions proposed might be more costly and consequently less attractive than what we have right now.

Witnesses for the bill as originally written freely admitted that its real purpose was to make it easier to compare "price per ounce" and thus find out which of several products of the same type cost the least. Upon questioning, it became apparent that if everything authorized under the bill were actually done, and packages were standardized to a greater extent than anyone had attempted, price comparisons on a simple "price per ounce" basis were still impossible and always would be until prices were set by the Government or the manufacturer rather than the man who runs the store. Competition between retailers prompts offers of what have become known as "threefers" and "twofers" and, although the packages might be confined to 8, 12, or 16 ounces, the arithmetic is just as complicated as at present.

As the bill now stands, these impossible and harmful provisions have been removed. A voluntary standard may be invoked in instances where proliferation of packages seems unreasonable, but no extra costs can be incurred by reason of Government action alone. So let us see what we have here in the bill reported by the committee. The bill is aimed entirely at people who package or label consumer goods and not at those who

distribute them either at wholesale or retail. This is commendable because the day we begin detailed regulation of the retail process is the day we have lost a free economy. Price control and the limitation on new products would be the inevitable result.

This legislation will require certain labeling practices, and the creation of rules and regulations to accomplish these will be on a mandatory basis. After listening to all the testimony I can say that the regulatory agencies do seem to need some rededication and redirection in this area.

The mandatory regulations will provide that:

First. Labels will identify the commodity and its maker.

Second. Net quantity will appear in a uniform place on the principal panel of the label.

Third. Under a gallon or 4 pounds, contents will be shown in units such as quarts or pounds and additional ounces. It will also be shown in total ounces.

Fourth. Linear and square measures are also covered. This includes items such as string, scotch tape, and facial tissue.

Fifth. Random packages may be in fractions of ounces. An example of this is the wrapped cheese wedges you are familiar with.

Sixth. Quantity statements will be required to show up and be readable without turning the box 16 ways to find them.

We can all think of examples where regulations such as required here will be of some help to the buyer. Not that they could not have been accomplished long before now under present authorities. As a consumer I will be glad to see them done. But every rule for packaging has many exceptions. What makes good sense for some products and some kinds of packages immediately appears absurd when applied to others.

Now in the field of discretionary labeling regulations—during the discussion and the hearings on this legislation it became apparent that there were a few practices which cause some controversy even among those in industry and more so among buyers. These were worked over pretty thoroughly, and the result was a decision to allow the Federal Food and Drug Administration and the Federal Trade Commission to take action where necessary.

The first of these problems was the designation of packages as "small," "large," "jumbo," and the like. For an 8-ounce package of one product to be the "jumbo" size and a 30-ounce package of a similar product to be so designated makes but little sense. On the other hand, it does little harm because nobody is fooled by such nonsense. The agencies may now set up some limitations and range of sizes which may be identified by these superfluous tags.

Many products designate the number of servings to be produced by the contents. Some tell you how many ounces or cups to a serving and some do not. Since a serving for one family may be a greatly different quantity of food than a serving in another family, it seems only fair and equitable that any indication of servings

to be expected should also tell the customer what those servings consist of. Are they 1-ounce servings, 2-ounce servings, or 2-cup servings? Regulations may be promulgated to require an explanation of servings where the designation is used on the package.

The widely used "cents-off" promotions are the subject of considerable controversy within industry and trade circles. The problem lies in the fact that a manufacturer or a packager of a product, in order to induce the customer to try it, prints on the package that it is being sold at a specified amount below regular price, and the label will announce in large and bold print, "5 cents off." Once that is done, it becomes the duty of that packager, if he is not to fool the public, to take steps to assure that the saving actually goes on down to the ultimate purchaser. This is not as easy as it would at first appear because he cannot control the prices at the retail level, and he is at the mercy of each individual retailer in such a case. Yet, the device seems to be popular both with industry and the public. Under this bill, regulations may be promulgated to make it certain that the customer gets what the label says.

When a shopper picks up a container of food in the market, she is accustomed to seeing a list of ingredients. I doubt that she pays much attention to this or knows that the listing has some significance. Ingredients are named in the descending order of importance, but exact amounts or percentages are not required. This bill anticipates that some products other than food should indicate ingredients in the same manner and gives authority to make such regulations. People who make cosmetics are concerned about this as are some other product manufacturers. Certainly there are problems where the number of ingredients is very large, the names of such ingredients are also long and the package is very small. This practical problem can certainly be met under the procedures for rulemaking and the safeguards of judicial review.

A partially filled package is deceptive. An absolutely full package is almost an impossibility. Somewhere between these is the reasonable and sensible use of the box or other package, depending to a great extent on the kind of product being packed in it. Testimony indicates that the instances of deliberate slack fill are few and far between. In the case of food items, there is presently authority to prohibit and regulate it. This bill, however, goes enough further to extend this some authority to other appropriate products.

Standardization of package sizes and weights to be packaged therein held the attention of the committee through most of the hearings. Testimony clearly indicated that it might work to the distinct disadvantage of the consumer to force such uniformity. It seemed clear, beyond question that it would stifle innovation which is the very heart of the merchandising structure today. The bill does allow for voluntary procedures to get at the question of proliferation of packages and weights. Some standards may well be in order for certain products. The

procedures to approach the problem in this manner have been there all the time.

Maybe after a really sincere effort to work out such standards we will have enough solid information upon which to make a sound, unbiased judgment on the subject here in Congress. Surely we do not have that information today. After the 4 years of discussion in the other body, the issues are cloudy and the facts unattainable. Meanwhile, the American housewife is getting the best selection of foods in the best selection of packages containing partial or total preparation. The range of choices in prepared and semiprepared foods would have been unbelievable even a decade ago.

In its present form I support H.R. 15440. It has some very useful provisions.

Now I should like to ask the distinguished chairman of my committee a couple of questions on subjects which I believe are important.

With respect to paragraph 4 of subsection 5(c) of the bill, lines 9 to 18, page 24, relating to the listing of ingredients on labels of consumer commodities, it is not the intent to require that formulas be disclosed; is that true?

Mr. STAGGERS. No, Mr. Speaker, this is not the intent, nor does the provision permit otherwise that trade secrets be divulged. This is very explicitly stated in the bill.

Mr. SPRINGER. My second question is, Mr. Speaker: Some consumer commodities may have numerous chemical ingredients and are contained in quite small packages with little label space. I understand that ingredients need to be listed only after a determination that listing of ingredients would facilitate value comparisons among competing products.

Mr. STAGGERS. That is correct; paragraph 5(c)(4) provides that the label bear the common or usual name of each ingredient listed in order of decreasing predominance, but this is related to value comparison. If the label is too small, the agencies have authority to make exemptions for such situations.

Also, in most of these cases, they are discretionary. This comes under the discretionary part of our bill.

Mr. SPRINGER. I thank the chairman for that explanation.

(Mr. SPRINGER asked and was given permission to revise and extend his remarks.)

Mr. MORTON. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Maryland.

Mr. MORTON. In the case of merchandise that is in second hands, such as chainstore warehouses or jobber's warehouses, and the jobber decides that a cents-off promotion should be made and puts an oversticker on the label, which oversticker has to go somewhere on the front panel and covers up some of the information on the label, then who is liable for an infraction of the law as described here?

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. SPRINGER. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, I think if the gentleman is talking about real secondhand used goods, then those goods do not come under the provisions of this bill.

Mr. MORTON. No. This is new goods in the pipeline of distribution in the chain store warehouse, which warehouse decides to go into a promotion in order to use up excess inventory with a cents-off or other promotion deal. This requires an oversticker which is stuck on the label and covers up some of the vital information. Who is liable in that case?

Mr. SPRINGER. The person who put that sticker on the package.

Mr. MORTON. Not the manufacturer?

Mr. SPRINGER. No, not the manufacturer, because I am saying now only if it has left the manufacturer's hands that is the case. If it has been sold and passed on to a second party, then the second party would be responsible for any sticker put on the goods.

Mr. MORTON. Now I have a question on cents-off promotion. As this bill is now written before us, does it prohibit cents-off promotions when, for example, in introducing new items in the market, such as a new cake mix, or new items of canned goods, where a special promotion is felt to be required as an introductory measure, does this prevent any cents-off label?

Mr. SPRINGER. It would not prevent it, but there is, may I say, under the legislation some regulation of it.

Mr. MORTON. Thank you very much.

Mr. SPRINGER. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. Mr. Speaker, while I am in favor of this reduced bill, there are a couple of items I would like to call attention to as a matter of record. In the committee report on page 15 there is a provision about the additional cost in manpower requirements. Those figures were given to the committee when we had the original bill before us with the mandatory features in it. They will not apply in any way that I know of to this reduced bill, because if that were true, the reduced bill could not go into effect under the President's mandatory provision that the department shall not add additional personnel nor shall they increase their costs. The figures, as I understand it, were given to the committee when we were holding hearings on the original bill as to the 150 persons in HEW, or the 10 or 12 persons additional for the Federal Trade Commission. So those figures and the costs should be disregarded so far as the effect of this reduced bill is concerned.

Mr. Speaker, I am inclined to agree with the gentleman from Missouri, our colleague [Mrs. SULLIVAN]. Essentially I am opposed to this kind of a bill coming up under the suspension calendar, because I think it deserves greater debate and every one ought to have an opportunity to express himself on it and the debate should be limited to 40 minutes. I want to make doubly sure, Mr. Speaker, that if title V, which we took out, or if any portion of it is reinserted by a conference, then I want to have the reservation to oppose the conference report.

I want to make sure of that.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. YOUNGER. I shall be glad to yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, this bill came out of the committee in a unanimous form with the general opinion—I believe the opinion of the majority of the full committee—that they would approve of the bill with reservations, but they do expect the House version to be followed unanimously in the other body.

Mr. Speaker, we could not live with the original bill it, particularly with respect to section 5. It was not based upon a voluntary standard basis. It is now; thus, I believe we have a good, healthy bill because we do make genuine improvements in sections 3 and 4 with respect to labeling.

Mr. Speaker, section 5 should be given very close consideration. If the other body tampers with it, that is, put back mandatory regulations, I think our committee would oppose the bill.

Mr. YOUNGER. Mr. Speaker, I want to make this further observation, that when the original bill came in it seemed to me that it was predicated upon the idea that the housewife and the shopper was both dumb and stupid and that assumption is something with which I do not agree.

(Mr. YOUNGER asked and was given permission to revise and extend his remarks.)

Mr. SPRINGER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. DEVINE].

(Mr. DEVINE asked and was given permission to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I address the House on this occasion for two reasons:

One, in order to send up a warning flag as it relates to this particular legislation.

No. 2, to write a little bit of legislative history.

Mr. Speaker, first of all, this legislation had weeks of hearings in the Committee on Interstate and Foreign Commerce. Ultimately, we had a vote in which it was determined to table this resolution. The vote was 13 to 6.

However, Mr. Speaker, shortly thereafter, there was a reconsideration motion made, and after some pressure from some sources, the committee reversed its position and the bill was passed out of the committee by an "overwhelming majority" of 17 to 14, if the Members of the House will pardon the expression.

Ultimately, Mr. Speaker, this bill—if the Members will again pardon the expression—was "gutted" in that we took out most all of the objectionable provisions.

Mr. Speaker, the bill now carries a label, "Truth in Packaging" and, of course, none of us can afford to be against "truth."

However, Mr. Speaker, all of us have to consider the label on this bill and the labels on other bills which come to the floor of the House or consideration.

However, this legislation has been represented to the American people as

a protection of the housewife against deceptive practices.

The bill, I would say to my colleagues, as originally introduced, would have created a monstrous bureaucracy, one designed to further regulate the free-enterprise system of this country, and I opposed it.

Mr. Speaker, I am happy to see that the committee members have worked upon it very intelligently and carefully, and as it comes to us today—as the gentlewoman from Missouri [Mrs. SULLIVAN] indicated, it does practically nothing.

Mr. Speaker, I am not one who is inclined to believe that the housewives of America are stupid. I would say this—that the lady shoppers who go to the store may be fooled once, but that the retail merchants of this country cannot afford to, nor do they, deceive the housewife.

Mr. Speaker, it seems to me that our lady shoppers are discerning enough to choose what they want and then buy it.

Again, I would suggest that this is another indication of the “camel’s nose under the tent,” and the truth-in-packaging bill probably will be approved by the membership of the House today. However, I am sure we can look forward to the day when Mrs. Peterson, who is pushing this legislation, will keep on pushing until it is ultimately drawn in the form in which it passed the other body and the form in which it was originally made so objectionable.

The bill before us today will only be permissive and relates to labeling, thus, cannot be considered as interfering with the free-enterprise system.

Mr. SPRINGER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington [Mrs. MAY].

(Mrs. MAY asked and was given permission to revise and extend her remarks.)

Mrs. MAY. Mr. Speaker, I am going to vote for the packaging and labeling bill approved by the House Interstate and Foreign Commerce Committee, in the understanding that this version of the legislation is the one to which the House leadership is firmly committed.

By this I mean that although the House committee version is in keeping with the best interests of American consumers and the economy, I remain firmly opposed to other versions of this legislation which are detrimental to those paramount interests.

Mr. Speaker, the House Interstate and Foreign Commerce Committee has done a conscientious and thorough job of hearing testimony and studying the possible need for new packaging and labeling legislation.

I was privileged to testify before the committee. At that time I stated my reasons for opposing any bill which, under the guise of “protecting” the American housewife, would, in fact, limit the American consumers’ freedom of choice and feed the fires of inflation in the supermarket.

In my opinion, the House committee’s study was the most thorough analysis of proposed packaging and labeling legislation ever made. It is significant that, having heard the witnesses, viewed the

testimony, and separated the chaff of slogans and propaganda from the wheat of the consumer’s genuine needs, the committee has reported a bill which eliminates the worst elements of the original H.R. 15440.

The committee’s bill offers a much needed clarification of existing law. As I stated before the House Commerce Committee, what is vitally needed, whenever situations arise which adversely affect consumer interests, is firm and timely action both to safeguard those interests and curb the offender. I am convinced that the legislation now being considered by the House will make it possible for our authorized Federal agencies to do a better job toward this end.

As a Member of Congress, I consider this bill to be constructive legislation in the public interest—that is, a bill designed to do a specific, needed job without undue increment of powers to an expanding Federal bureaucracy.

And as a housewife, I sincerely believe this bill to be a “housewife’s bill” in that it will benefit the American housewife without interfering with her freedom of choice, or adding unnecessary cost to her grocery bill.

For in the last analysis, the best “protection” the Congress or the Federal Government can give our consumers is to make certain that they can continue to choose freely in a free competitive market—and this bill will serve that end.

Mr. SPRINGER. Mr. Speaker, I yield to the gentleman from Illinois [Mr. ANDERSON].

(Mr. ANDERSON asked and was given permission to revise and extend his remarks.)

[Mr. ANDERSON of Illinois addressed the House. His remarks will appear hereafter in the Appendix.]

Mr. SPRINGER. Mr. Speaker, I yield to the distinguished gentleman from Maryland [Mr. MORTON].

(Mr. MORTON asked and was given permission to revise and extend his remarks.)

Mr. MORTON. Mr. Speaker, after study of this bill, H.R. 15440, I ask this question: Is this bill necessary to protect the consumer? and, Does it really do the job? In the first instance, the present law already provides broad authority to regulate labeling, all of which authority has not been used.

Under present law, regulations can be revised and changed in areas where necessary to insure full consumer protection. This bill, then, becomes a superficial, politically-oriented proposition designed more for political gain than a guarantee of fair treatment in the marketplace. If present regulations are enforced and lived up to, any shortcomings in packaging and labeling can be overcome without this new law, about which much misinformation has been spread. In short, it is a coverup of the failure of this administration to enforce present law and regulation.

Here, under the slogan-title of “truth in packaging,” the Congress is guilty of doing nothing but singing a lullaby to the

housewife to gain her goodwill and her vote, saying at the same time that the bill has lost its punch. What a demonstration of weakness.

In my opinion, the premise on which this measure is put forward is: one, that all business is crooked; two, that all housewives are stupid; and, three, that Congress is allwise—none of which I agree with.

In conclusion, I will vote against the bill because—

It is not needed;

It can further increase price in the market;

It is designed more for political gain than consumer protection.

Mr. SPRINGER. Mr. Speaker, I yield the balance of my time to the gentleman from Minnesota [Mr. NELSEN].

Mr. NELSEN. Mr. Speaker, one would think on the sales pitch that had been made on this bill that the public is without protection on labeling and without protection on slack-fill of packages.

I would point out that in the hearings it became crystal clear that many of the points on which this bill has been sold are presently covered in the law, and wherever there have been violations it could be charged that the authorities that are in charge of the enforcement have been slack in their application of their authority.

As to readability of labels, we have in the laws plenty of regulations giving the Food and Drug Administration the authority they need, but there have been cases where they have not exercised their authority.

I would point out that before the hearings were over I doubt that we had a handful of people who really would have gone along with the original bill.

It was our intention to emphasize the need for proper labeling and proper packaging, and some constructive approaches in regard to a reading of matter in detail on the packages by the housewives. I think the committee did an honestly good job, and I hope the bill will stay in its present form, and I hope title V will be taken out and stay out of the bill so far as the passage in both bodies is concerned.

(Mr. HALL asked and was given permission to revise and extend his remarks made on this bill.)

(Mr. CUNNINGHAM (at the request of Mr. HALL) was granted permission to revise and extend his remarks on the bill.)

Mr. CUNNINGHAM. Mr. Speaker, as a member of the Committee on Interstate and Foreign Commerce, I support this legislation and have long pressed for action in this field. There have been many deceptive practices in the labeling of food products and I believe this bill will halt the obnoxious gimmicks used and which irritate the housewife.

Mr. Speaker, I urge the House to approve the House version overwhelmingly.

Mr. STAGGERS. Mr. Speaker, I yield such time as he may require to the gentleman from Maryland [Mr. FRIEDEL].

Mr. FRIEDEL. Mr. Speaker, on page 27 of the bill (H.R. 15440) there is found the following language:

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

I refer particularly to that part of the subsection which says, "nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation."

It is my understanding that this language would also apply to labels for containers and packages in inventory. Am I correct?

Mr. STAGGERS. If I may read the language, it says, "nor shall any regulation under this act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation."

It is my understanding that this would apply to inventories of containers and packages and not to inventory of labels, because they might have 20 or 30 years' supply of labels piled up. But whatever packages or containers that they have in inventory that are labeled—this language takes care of that.

Mr. FRIEDEL. In other words, if I may inquire of the gentleman, the labels that already are on the packages or containers would be all right?

Mr. STAGGERS. Yes, that is correct.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. FRIEDEL. I yield to the gentleman.

Mr. BINGHAM. Mr. Speaker, I rise in support of the bill H.R. 15440.

I am a firm supporter of legislation and programs designed to extend and improve consumer protections. The need for added consumer protections has been demonstrated time and again in recent years as the marketing methods of manufacturers have become more sophisticated and, as the committee report states, "the packages have replaced the salesman."

The rise in the cost of living in recent months is an added reason for consumer legislation of this type. Both the need and the desire of consumers to get the maximum goods and services for every dollar expended have increased in recent months. Obviously, legislation can provide only the opportunity for the well-informed consumer to make a judicious choice in the selection of his or her purchases. Whether the consumer will make use of that opportunity depends on the success of consumer education programs.

I am one of the sponsors of the original Fair Packaging and Labeling Act—commonly called the Truth-In-Packaging Act. The proposal has been significantly amended by the committee in an effort to meet some of the objections advanced by industry representatives. These amendments have reduced the protections contained in the original bill. Nonetheless, the bill before us today still provides for some advances in this field and merits our support because it constitutes a step in the right direction.

In its present form, the bill directs the Secretary of Health, Education, and Welfare—in the case of food, drugs, devices and cosmetics—and the Federal Trade Commission—in the case of all other consumer commodities—to require that the label on a package carries the identity of the commodity and the name and address of the manufacturer, packer or distributor; that the label states the net quantity of the contents in easy-to-read type; and, that for packages containing less than 4 pounds or 1 gallon the net weight be stated both in total ounces and in pounds and ounces or in pints, or quarts, and ounces. For example, a box of soap powder containing that 34 ounces would have to provide a statement to that effect and also that it contains "2 pounds and 2 ounces." Comparable provisions relate to packages where the linear or area measure is significant—for example paper toweling.

The bill also authorizes issuances of regulations to determine which size packages could be labeled as "small," "medium," and "large." This will end the situation where one brand of soap powder is sold in a box marked "large" while the same size box of soap powder by a rival manufacturer is marked "medium." Regulations could also be issued which require that a package which is labeled as to the number of "servings" would have to state the net quantity of each such "serving" in terms of weight, measure, or numerical count. Many articles on consumer problems have pointed out that rival food products may each claim that it has "four servings" of the food involved. However, four people might find the amount allotted totally inadequate in one case and adequate in an other.

Regulations can also be adopted with regard to sales promotions featuring "cents off" offers. For example, such regulations could prevent a manufacturer from printing "5 cents off" on all of its packages to try to give the impression that the product regularly sells for more than the price being asked in the store at the time. Regulations could also be issued to require that packages of nonfood products list all ingredients in order of decreasing predominance, as is now required for food products.

Finally, the problem of half empty packages may finally be reached by Federal regulations. There are occasions when a product must be wrapped specially to prevent it from being injured as it is being shipped in the boxes in which it will be ultimately offered on the shelves in the store. In addition, automatic machines used on some products may result in filling a package to less than capacity because of the problem of automatically sealing the package by machine. However, in contrast to these two situations, the consumer is often cheated or misled because the manufacturer deliberately chooses a box far bigger than is needed for the quantity of the product being sold. The customer gets a box, one-third of which is paper lining. This is the so-called "nonfunctional fill" and may be on the way out if this bill is finally enacted.

Unfortunately, the bill falls short on

some counts. My bill, for example, would have authorized regulations which would have compelled manufacturers and distributors to use standard units of weight and measure for products; it would have made it possible that similar products would be sold in standard sizes. For example, soap powder might come in packages of a half-pound, pound, 2 pounds, 5 pounds, 10 pounds or 20 pounds. The alert shopper could then compare competing brands if they all came in such standard quantities. But how does the shopper compare relative unit prices of soap powder if one package with 3 pounds and 4 ounces sells for \$1.31 and another with 12 ounces sells for 27 cents?

In its present form, the bill before us authorizes the Secretary of Commerce to try to encourage manufacturers to agree voluntarily to adopt a set of standard weights and package shapes. If this effort to get voluntary agreement fails, the Secretary is advised to return to the Congress for new legislation. I fear that we can anticipate that this will be necessary.

A great deal will depend on the way in which this bill is enforced by the Federal agencies involved. Their commitment to the purposes of the legislation is essential because we leave so much to their initiative. We must watch very closely to see whether the regulations which will be issued and the efforts to achieve voluntary compliance by the industries in these fields do provide the progress we seek and we must stand ready to enact additional legislation if this bill fails to achieve its purposes.

(Mr. BINGHAM asked and was given permission to revise and extend his remarks.)

Mr. POOL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Texas.

(Mr. POOL asked and was given permission to revise and extend his remarks.)

Mr. POOL. Mr. Speaker, H.R. 15440, the Fair Packaging and Labeling Act which will be passed by the House today will be of great help to the American housewife in the supermarket. It will assist her in making choices between competing products and between different quantities of the same product. We do need regulation of misleading packaging and inconspicuous, hard-to-read, and hard-to-find labeling information. Housewives now, under the provisions of this bill, will be able to cope with the fraud of "cents off" deals found on the shelves.

No longer will the housewife end up paying the same price she would normally pay for a product which is supposed to be a bargain but is not. No longer will the lady of the house have to wade through the supermarket jungle of deliberately confusing sizes, shapes, and net weights so as to recognize the better buy between two sizes of the same product made by the same manufacturer.

This legislation will save American housewives and families millions of hard-earned dollars in guaranteeing they will get full value for their money. If the

Congress would follow this commonsense philosophy in other fields and cut off foreign aid, antipoverty, and other welfare state inflationary programs, the American family would be better able to deal with the cost of education and the expense of clothing and feeding the family. This legislation has been long needed and gives the American consumer a much deserved break.

It is my view—and I feel it is the intent of this Congress—that any extra cost incurred by the producer through this legislation should not be passed on to the consumer. Furthermore, I do not think this legislation should be changed in conference with the Senate to make the costs of compliance so prohibitive that consumer costs will be increased. I am assured by the chairman of the House Interstate and Foreign Commerce Committee, the Honorable HARLEY STAGGERS, of West Virginia, that he will take this attitude when he goes to conference with this bill.

I have always supported the housewife in the marketplace. I have voted to stabilize the price of coffee so as to prevent wild price increases in that commodity. I have likewise voted to stabilize the price of sugar. And I have voted only for those wheat and cotton subsidies which were a necessity to the farmer in his economic predicament. I have very zealously insisted that products made from these commodities should not undergo appreciable price increases.

Congress has done a tremendous job in protecting the housewife and the American family in the marketplace. I feel that the Fair Packaging and Labeling Act to be passed today is another step in the right direction.

Mr. ROSENTHAL. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. ROSENTHAL. Mr. Speaker, I rise in support of H.R. 15440. I want to commend the gentleman from West Virginia and the committee for the time and effort they have devoted to bringing this legislation to the floor of the House.

My support of this bill is somewhat reluctant, however. I wish that it were a stronger bill and in that regard, I wish to associate myself with the remarks of my distinguished colleague, the gentleman from Missouri [Mrs. SULLIVAN].

It seems to me that the bill surely should have had mandatory labeling provisions and mandatory standards of weights and measures. In my judgment, an overwhelming case was made for retaining the stronger provisions of Senator HART's bill and I think it is regrettable that the committee saw fit in its wisdom to remove those sections of the bill.

What we have is only half a truth-in-packaging bill. Without enforceable provisions for labeling, weights, and sizes of packages, the bill lacks the very elements which would assure protection of the consumer's interests. I am hopeful that in the event this bill goes to conference, it is the version of the other body which will be adopted.

Mr. KORNEGAY. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman.

Mr. KORNEGAY. I would like to ask the chairman of our committee a question.

Mr. Chairman, under section 502(e) of the Food, Drug, and Cosmetic Act, drugs presently require disclosure of ingredients that have considerations of health and safety, but not as to considerations of price, value, and so forth.

In other words, those ingredients which are therapeutically active must be declared under the regulations of the section which I cited in the order of their predominance.

Under section 5(c)(4) of the bill, in which we exempt food from the operation of that section, no reference is made to drugs, whereas both drugs and food under the Food, Drug and Cosmetic Act receive similar treatment.

I just want to know from the chairman the situation with reference to drugs when you compare them to food within the meaning and intent of section 5(c)(4).

Mr. STAGGERS. I might say to the gentleman from North Carolina those foods are already covered under the act. This extends it to drugs and cosmetics in the discretion of the Department. There must be a reason to show why the ingredients should be there on the label either for value comparison or to prevent deception. This is the discretionary part of the act.

Mr. KORNEGAY. Mr. Speaker, if the gentleman will yield further—

Mr. STAGGERS. I yield to the gentleman from North Carolina.

Mr. KORNEGAY. In other words, with drugs and cosmetics, where there are literally dozens and dozens of non-active ingredients, if these ingredients have no value so far as price comparison is concerned, it is not the intent of this legislation to require the listing of those ingredients?

Mr. STAGGERS. Not unless the listing is necessary in order to make the value comparison possible.

Mr. KORNEGAY. I understand if they are necessary in order to make price comparisons, then they should properly be listed. But if they are not necessary in making price comparisons, then there would be no requirement that they be listed.

Mr. STAGGERS. That is correct.

Mr. KORNEGAY. I thank the gentleman very much.

Mr. STAGGERS. Mr. Speaker, I yield to the gentleman from Ohio [Mr. GILLIGAN].

(Mr. GILLIGAN asked and was given permission to revise and extend his remarks at this point in the RECORD.)

Mr. GILLIGAN. Mr. Speaker, I rise in support of H.R. 15440 as reported by the Committee on Interstate and Foreign Commerce.

This very important piece of legislation not only offers consumers a measure of protection unknown heretofore against dishonest and deceptive practices in the packaging of consumer commodities but provides as well regulations designed to make it easier for the housewife to com-

pare the value of commodities on the retail shelf.

At the same time the legislation does nothing that will needlessly inhibit the operations of the production lines of our manufacturers, packagers, and distributors who are today providing the American consumer with the greatest array of commodities ever made available to the purchasing public and to provide these commodities at the lowest prices available anywhere in the world.

It is said that the American consumer today has a choice of some 8,000 packaged commodities in the modern supermarket, and that probably 80 percent of these products were not available 15 years ago. The revolution that has taken place in recent years in the field of production and packaging of food items and household products is difficult to describe, though it has resulted in providing to the American family the highest standard of living ever known in the world.

The task confronting the Committee on Interstate and Foreign Commerce was to develop legislation which would eliminate from the market place a number of undesirable and confusing merchandising practices on the part of a very small minority of our manufacturers and distributors, while at the same time permitting the widest possible latitude in the development of new products, new production processes and more efficient packaging. H.R. 15440 in my judgment accomplishes precisely that.

The Committee on Interstate and Foreign Commerce held hearings on this legislation for 18 days and the testimony from Members of Congress, representatives of the Federal departments and agencies concerned, State agencies, labor and consumer organizations, trade associations and individual companies has been published in two volumes running to 1160 printed pages. From this mass of testimony certain facts were gleaned which in the judgment of the committee made imperative certain substitute changes in the legislation approved by the Senate and these changes have now been embodied in H.R. 15440. The bill under discussion today is a stronger, clearer, and more efficacious measure than the one adopted in the other body and at the same time avoids the cumbersome restrictive and quite unnecessary regulatory apparatus which the Senate bill would have clamped upon American industry.

The voluntary standards of the weights and measures provision set forth in section 5 (d) and (e) provide a flexible and efficient method for the voluntary efforts on the part of industry to eliminate and restrict the unnecessary proliferation of package sizes, and provides at the same time a means by which the Secretary of Commerce can report to Congress on any specific instance in which the voluntary procedure has failed to produce the desired result, so that Congress may then take the necessary steps to write appropriate legislation with regard to such problems.

In summary, this legislation protects both the consumer and the producer and in its present form represents a real tri-

umph of legislative wisdom, skill, and industry on the part of the Committee on Interstate and Foreign Commerce. I respectfully urge prompt approval by the House.

Mr. STAGGERS. Mr. Speaker, I yield to the gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, I would like to ask the chairman several questions relating to section 5(c)(4) of this bill, which provides authority to require on the label, in decreasing order of predominance, the ingredients in non-food packages. Of course, we already require that on foods. But apparently this bill would extend the requirement to cosmetics except in "situations involving proprietary trade secrets." Is that correct?

Mr. STAGGERS. That is correct.

Mrs. SULLIVAN. Suppose a manufacturer should claim that everything about his preparation is a trade secret, as cosmetic manufacturers usually do. Is there a definition in the bill of what constitutes a trade secret?

Mr. STAGGERS. No, there is not. The manufacturers are very adequately protected and covered in the bill. You are talking about the discretionary part of the bill. The ingredient provisions are not mandatory. A listing of the ingredients may be needed on the label for purposes of value comparison or if there is some attempt to deceive. Then the ingredients must be put on the label.

Mrs. SULLIVAN. Then, Mr. Speaker, will the chairman assure us that it is the intention of the committee to require a listing of cosmetic ingredients on the packages under this bill in the vast majority of cases where the trade knows very well what is in the competing products—where everybody knows except the consumer? There are actually very few secrets in the cosmetic trade, as a reading of the industry publications will certainly show. But if this bill can lead to the listing of the ingredients in cosmetics on the packages, it will be an important contribution to consumer well-being. I certainly hope the Food and Drug Administration will vigorously use this authority and be encouraged to interpret it to mean actual trade secrets and not anything that any manufacturer tries to claim is a trade secret merely to keep the consumer in the dark. This would really help allergy sufferers to select cosmetics.

Mr. STAGGERS. I just answered a similar question asked by the gentleman who preceded the gentlewoman from Missouri. I said this is up to the FDA if necessary to prevent consumer deception or to facilitate value comparisons.

Mr. COHELAN. Mr. Speaker, I rise today to support the fair packaging and labeling legislation before us. This legislation, which will give the consumer the necessary information to make rational choices in the marketplace, is long overdue.

I had hoped that the bill we would be considering today would have the additional safeguards of S. 985, the truth-in-packaging bill as passed by the Senate. In the interests of time in the

closing weeks of the 89th Congress, however, I shall support the House bill, H.R. 15440, as amended by the Committee on Interstate and Foreign Commerce. It represents the collective judgment of this distinguished committee as to what is necessary to give the consumer this legislation in the present Congress.

The committees of both the House and the Senate declared the policy of this legislation as follows:

Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

No more forceful statement could be made in support of this legislation so important to all the consumers of this country.

Mr. Speaker, without the opportunity of strengthening the bill by amendments on the floor, I urge the conferees to restore the provisions of the Senate bill which would furnish additional safeguards for the consumer in his purchases of consumer commodities.

In particular, I would hope that the Senate version of section 5(d) would prevail. It provides that whenever the promulgating authority determines that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons, the Secretary of Commerce may request the producer to participate in the development of a voluntary product standard. However, if the voluntary process is not successful in developing a standard to take care of the problem, then the Secretary of Health, Education, and Welfare or the Federal Trade Commission may develop a reasonable range of weights and quantities in which a consumer commodity may be marketed.

In the House bill the only recourse, if the voluntary procedure is unsuccessful, is for the Secretary of Commerce to report promptly to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question. As we know, the enactment of additional legislative authority and the promulgation of regulations could be a slow and arduous route to providing the consumer a reasonable choice to assure that the free competitive forces of the market will operate.

Further, the labeling provisions of the Senate bill have been diluted. In the Senate bill, authority was provided to make regulations on a commodity-line basis to require sufficient ingredients or composition information on the labels of food, drugs, and cosmetics in percentages or proportions so that the consumer could determine the relative value of competing products. The House bill only

extends to non-foods the present requirement for the listing of ingredients in the order of decreasing predominance and eliminates the proportions of ingredients on the labels of foods, drugs, and cosmetics so necessary to making a determination of the economic value of a commodity.

The Senate version of the labeling provision on servings is also preferable, in my judgment. I would urge that if the serving provision of the Senate bill, which provides the authority to establish and define servings is not restored, that the servings provision of the House bill, to require a statement of the net quantities of a serving be added to the label, be moved to the mandatory section 4(a).

Mr. Speaker, this legislation is a step in the right direction of ending consumer confusion. I urge that it be approved.

Mr. KEE. Mr. Speaker, I rise to commend the distinguished gentleman from West Virginia [Mr. STAGGERS], chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, and the members of his committee, for favorably reporting H.R. 15440, known as the Fair Packaging and Labeling Act. In my judgment, Mr. Speaker, this legislative proposal should properly be known as the housewives bill.

The proper administration of this legislation would serve as a real aid to the housewives of America, in particular, in accurately determining the quantity of the contents of the merchandise, as well as identifying the value received for the dollar spent. It is primarily the housewife of America who is responsible for the family budget. It is the housewife of America who has the responsibility for purchasing the groceries for members of her family. Therefore, under this legislation, the housewife would be able to determine the actual value received for each dollar she spends.

Mr. ANDERSON of Illinois. Mr. Speaker, I intend to vote for H.R. 15440, the Fair Packaging and Labeling Act. However, I take this time to deplore the procedures that have been used to bring this matter to the floor of the House of Representatives. It is being presented to the House on a day when a total of 23 bills are being considered. This requires a resort to the use of the so-called suspension of the rules technique under which only 40 minutes of debate will be permitted and amendments of any kind are barred. Had this bill been brought to the floor under what I consider normal and sound legislative procedures I was prepared to offer a package marking amendment to the truth-in-packaging bill. The facts are indisputable that in many instances packages of small imported hardware items are being repackaged and sold in the United States with no marking thereon to indicate the country of origin. These small imported items are shipped to the United States in large containers, such as kegs, barrels, casks, and so forth. Following delivery to importers, the containers are opened and contents repackaged in U.S. type packages with no marking thereon to indicate country of origin. On the other hand, the name and U.S.

address of the importer of the products is plainly marked on the new package. Thus buyers of such imports are misled into the belief that they are buying "made in U.S.A." products, which is entirely untrue.

This misleading practice is growing daily throughout the country. It is for that reason that our domestic manufacturers of the above items and many others are extremely anxious to have this misleading and marking practice eliminated.

The object of the truth-in-packaging bill is to inform all buyers of packaged merchandise as to what they are actually buying. The requirement that all newly made-up packages of imports be plainly marked in English with the country of origin is, therefore, germane and in ac-

cord with the spirit and objective of the truth-in-packaging bill.

Mr. Speaker, under unanimous consent I include in the RECORD some recent statistics which relate to the importing of screws, bolts, and nuts, and rivets into the United States. They document very clearly the statements that I have just made.

Mr. Speaker, I think it should also be pointed out that even more pressing than a demand for a truth-in-packaging bill is the requirement for a truth-in-legislation bill. The bill before us is supposed to address itself to the problem of slack filling in packages where air space is misrepresented to the housewife as constituting actual volume of the product being packaged. I find that the bill before us today is replete with "slack fill-

ing." It purports to be something that it really is not. It is merely a label which the Democratic administration can now trot out before the American electorate in a cynical effort to make them believe that we have achieved a significant advance in the field of consumer protection.

Mr. Speaker, this bill represents nothing of the sort. It is merely an empty shell designed to mislead the American voter into thinking that one of the planks of the Great Society has now been laid. This bill represents just another example of this administration's penchant for tying something up with a blue ribbon in a fancy package in order to make it appear different from that which it really is.

The statistics follow:

Total weekly importations from all countries (data from Ships' Manifests Reports, New York Journal of Commerce, New York City), includes screw products made of all metals, heads, lengths, threads, etc. (wood screws; machine screws, tapping screws, machine screw nuts, hex-head capscrews, setscrews, stove bolts, tubular and split rivets, socket screws, bolts and nuts of all types, etc.)

WEEKLY TOTAL IMPORTS BY MONTHS

[In thousands of pounds]

	1st week	2d week	3d week	4th week	5th week	Total for month	Average weekly rate		1st week	2d week	3d week	4th week	5th week	Total for month	Average weekly rate
1963:								1965:							
August.....	2,169	4,269	1,738	2,113	3,591	13,880	2,776	January.....	4,179	2,823	2,496	5,183	2,917	17,598	3,520
September.....	1,740	4,356	3,188	1,160	-----	10,434	2,609	February.....	2,821	2,168	1,650	2,579	-----	9,218	2,304
October.....	2,532	1,766	1,617	2,472	-----	8,384	2,096	March.....	3,050	3,897	5,618	3,171	-----	15,736	3,934
November.....	2,825	2,449	2,981	3,496	2,669	14,420	2,884	April.....	7,653	3,674	2,958	4,433	3,498	22,216	4,444
December.....	3,267	1,798	2,637	1,813	-----	9,515	2,379	May.....	4,214	5,483	6,884	4,756	-----	21,337	5,334
Weekly average (5 months).....	-----	-----	-----	-----	-----	-----	2,549	June.....	5,695	3,448	6,854	7,319	-----	23,316	5,829
								July.....	1,764	10,063	12,852	6,051	5,052	35,782	7,156
1964:								August.....	8,843	11,380	4,758	3,182	-----	28,163	7,041
January.....	5,277	4,342	2,159	2,386	3,490	17,654	3,531	September.....	7,847	4,894	8,180	3,318	-----	24,239	6,060
February.....	1,282	3,736	2,395	2,612	-----	10,025	2,506	October.....	5,191	3,786	7,764	6,508	2,354	25,603	5,121
March.....	2,044	1,765	4,514	2,117	-----	10,440	2,610	November.....	5,239	6,311	6,940	7,221	-----	25,711	6,428
April.....	1,619	3,697	2,852	2,732	-----	10,900	2,725	December.....	2,989	15,364	9,266	4,375	1,709	33,703	6,741
May.....	1,514	6,817	2,302	1,481	2,488	14,602	2,920	Weekly average (year).....	-----	-----	-----	-----	-----	-----	5,326
June.....	3,602	3,517	3,537	5,122	-----	15,778	3,944								
July.....	2,076	2,666	4,380	4,447	2,012	15,581	3,116	1966:							
August.....	7,282	6,794	2,671	2,915	-----	19,662	4,915	January.....	3,077	4,519	3,482	6,705	-----	17,783	4,446
September.....	3,604	2,805	3,095	4,735	-----	14,239	3,560	February.....	3,688	4,167	5,136	5,762	-----	18,753	4,688
October.....	2,164	4,353	2,663	4,595	2,304	16,079	3,216	March.....	6,168	4,588	3,230	6,317	3,836	24,139	4,828
November.....	2,422	2,615	4,736	4,593	-----	14,366	3,591	April.....	3,290	4,825	3,371	3,264	-----	14,750	3,688
December.....	6,533	5,006	8,136	3,953	-----	23,628	5,907	May.....	2,583	4,805	4,015	4,846	-----	16,249	4,062
Weekly average (years).....	-----	-----	-----	-----	-----	-----	3,518	June.....	2,673	3,938	3,924	5,392	4,170	23,097	4,619
								July.....	2,653	4,092	4,149	6,532	-----	17,425	4,356
								August.....	5,119	4,822	4,693	2,422	-----	17,056	4,264

Importations of screws, bolts, nuts, and rivets into the United States during week ending Aug. 26, 1966—Data derived from ships' manifests at various U.S. ports of entry as reproduced from import bulletin of the New York Journal of Commerce (compiled by George P. Byrne, 331 Madison Ave., New York, N.Y. 10017)

QUANTITIES BROUGHT IN BY IMPORT AGENTS OR CONSIGNEES

Product	Quantity	Country	Port of entry	Consignee
Barrel bolts (1,400 pounds).....	7 cases.....	Belgium.....	New York.....	International Hardware Imports.
Hex steel nuts (2,893 pounds).....	15 kegs.....	do.....	do.....	Order.
Steel nuts (22,114 pounds).....	545 cases.....	England.....	do.....	Jacobson Manufacturing, Kenilworth, N.J.
Iron nuts (2,607 pounds).....	18 cases.....	do.....	do.....	Andrew Fisher Cycle.
Iron rivets (12,291 pounds).....	94 cases.....	Germany.....	do.....	Order.
Bolts, nuts (3,067 pounds).....	21 cases.....	do.....	do.....	Zelanda Machine & Tool.
Bolts, screws, and nuts (1,208 pounds).....	8 cases.....	do.....	do.....	Alltransport, New York City.
Yellow bolts (23,025 pounds).....	105 kegs.....	Netherlands.....	do.....	Automotive Hardware.
Steel wood screws (26,140 pounds).....	263 drums.....	India.....	do.....	H. T. Kennedy, New York City.
Bolts (84,216 pounds).....	492 cases.....	Italy.....	do.....	Commonwealth Edison, Chicago.
Hexagon nuts (84,000 pounds).....	504 cases.....	do.....	do.....	Northern Trading.
Steel nuts (5,852 pounds).....	28 barrels.....	do.....	do.....	Northern Trading, New York City.
Hex nuts (14,947 pounds).....	105 cases.....	do.....	do.....	Reynolds Fasteners, New York.
Iron rivets (1,025 pounds).....	5 cases.....	do.....	do.....	Bowcraft Trimming.
Bolts (1,069 pounds).....	2 cases.....	do.....	do.....	Quinn Ferguson.
Brass screws.....	133 cases.....	do.....	do.....	do.....
Muntz metal bolts.....	21 cases.....	do.....	do.....	Americau Global Fasteners.
Bronze screws (26,000 pounds).....	10 cases.....	do.....	do.....	do.....
Rivets (2,220 pounds).....	8 cases.....	do.....	do.....	Trust Co., Manufacturers.
Nuts (935 pounds).....	5 cases.....	Japan.....	do.....	Perfect Parts, Inc.
Screws (45,213 pounds).....	235 kegs.....	do.....	do.....	Bar Zel Screw, Bolt & Nut.
Nuts, bolts (26,375 pounds).....	157 kegs.....	do.....	do.....	Automotive Co., Inc.
Machine screws (16,400 pounds).....	82 kegs.....	do.....	do.....	Martin Trading.
Steel bolts, nuts (12,161 pounds).....	53 kegs.....	do.....	do.....	Gosho Trading.
Bolts and C-clamps (11,168 pounds).....	92 packages.....	do.....	do.....	United Pipe Nipple.
Stove bolts, nuts (13,400 pounds).....	100 cases.....	do.....	do.....	Kenneth Byron, Brooklyn.
Steel nuts (25,060 pounds).....	140 kegs.....	do.....	do.....	Laufer Shipping, New York City.
Steel nuts (16,406 pounds).....	134 kegs.....	do.....	do.....	Jacobson Manufacturing, Kenilworth, N.J.

Imports of screws, bolts, nuts, and rivets into the United States during week ending Aug. 26, 1966—Data derived from ships' manifests at various U.S. ports of entry as reproduced from import bulletin of the New York Journal of Commerce (compiled by George P. Byrne, 331 Madison Ave., New York, N.Y. 10017)—Continued

QUANTITIES BROUGHT IN BY IMPORT AGENTS OR CONSIGNEES

Product	Quantity	Country	Port of entry	Consignee
Hex nuts (3,220 pounds)	20 kegs.	Japan	New York	Michigan Trading.
Brass-plated iron rivets (1,050 pounds)	8 cases	do	do	Spatx Bros.
Steel bolts, nuts, and washers (59,783 pounds)	370 cases and 33 kegs	do	do	Continental Bank International.
Bolts and nuts (43,920 pounds)	283 cases	do	do	Akehurin Corp., Hempstead.
Bolts and nuts (15,879 pounds)	93 cases	do	do	Marine Midland Trust.
Steel stove bolts (11,690 pounds)	10 cases and 85 kegs	do	do	Hudson Shipping.
Slotted steel machine screws (12,744 pounds)	70 kegs.	do	do	Michigan Trading.
Hex nuts (4,720 pounds)	40 kegs.	do	do	Gehrig Hoban.
Cap screws (15,909 pounds)	105 kegs	do	do	U.S. Forwarding.
Steel screws (3,062 pounds)	15 kegs	do	do	Order, Chicago.
Steel screws, bolts (64,399 pounds)	340 packages	do	do	Do.
Machine bolts (21,479 pounds)	111 kegs	do	do	Continental Bank International.
Head bolts less nuts, machine screws (29,840 pounds)	165 kegs	do	do	Order, Chicago.
Steel metal screws (12,378 pounds)	81 kegs.	do	do	Martin Trading.
Metal bolts.	176 kegs.	do	do	Hudson Shipping.
Steel stove bolts (26,874 pounds)	44 kegs.	do	do	
Steel stove bolts.	15 plts	do	do	
Steel square machine bolts.	1 plt.	do	do	Michael Co. of America, Los Angeles.
Steel carriage bolts.	21 kegs.	do	do	S. H. Pomerance.
Machine bolts (35,008 pounds)	5 kegs	do	do	
Hex steel nuts (1,081 pounds)	10 kegs.	do	do	Zenith Fabricators.
Steel hanger bolts (10,608 pounds)	64 kegs.	do	do	Sobel Shipping, New York City.
M. S. machine screws (10,325 pounds)	55 kegs.	do	do	Martin Trading, Oceanside.
Stove bolts less nuts (4,450 pounds)	25 kegs.	do	do	A. J. DeMay.
Steel screws (11,965 pounds)	149 cases	do	do	Fastener Industries.
Steel nuts (16,577 pounds)	240 cases	do	do	Artmark Products.
Steel nuts (49,913 pounds)	90 drums	do	do	David Komisar & Son.
Slotted steel sheet metal screws (9,146 pounds)	82 cases	do	do	Sidney Scheinert & Son, Saddle River, N.J.
Steel stove bolts less nuts (59,822 pounds)	392 kegs and 4 cases.	do	do	Cap Screw & Nut Co. of America.
Hex nuts (7,500 pounds)	50 kegs.	do	do	Century Fasteners.
Hex nuts (1,731 pounds)	11 kegs.	do	do	U.S. Forwarding.
Hex nuts (5,430 pounds)	90 kegs.	do	do	David Allison.
Hinges, screws (8,760 pounds)	520 cases	do	do	Achurin Corp.
Steel wood screws (2,566 pounds)	76 cases	(Taiwan Formosa)	do	American Chain & Cable.
Bolts, nuts (826 pounds)	2 drums	England	Baltimore	Kerr Maurer.
Brass screws (566 pounds)	3 cases	do	do	F. M. Wagner.
Nuts (528 pounds)	3 cases	do	Chicago	Order.
Nuts (3,000 pounds)	6 tons	Germany	do	Reynolds Fasteners, New York.
Steel nuts (20,200 pounds)	101 kegs	Netherlands	Detroit	A. F. Burstrom.
Steel nuts (20,000 pounds)	100 cases	Italy	do	Order.
Bolts (29,400 pounds)	147 cases	Belgium	do	Northern Trading, New York City.
Screws (50,000 pounds)	250 kegs	Japan	do	Ajax Bolt & Screw, Detroit.
Screws (13,400 pounds)	67 kegs.	do	do	Continental Bank International.
Nuts (24,000 pounds)	120 kegs	do	do	A. F. Burstrom.
Screws and nuts (37,600 pounds)	188 kegs	do	do	Reynolds Fasteners, New York.
Steel bolts (115,200 pounds)	576 kegs	Netherlands	do	Gosho Trading.
Nuts (22,400 pounds)	112 kegs	Japan	do	A. F. Burstrom.
Bolts and nuts (104,200 pounds)	171 plts	do	do	J. V. Carr, Detroit.
	274 packages.	do	do	Dorf International.
Bolts and nuts (36,000 pounds)	720 packs	Italy	do	American Machinery Implements.
Bolts and nuts (34,000 pounds)	68 packs.	Germany	do	H. T. Kennedy, New York City.
Screws (7,200 pounds)	36 cases	do	do	Order.
Steel nuts (9,600 pounds)	48 kegs.	England	do	R. W. Smith.
Bolts (7,500 pounds)	75 bags.	Japan	Galveston	Kulkoni.
Nuts	24 cartons.	do	Houston	Order.
Bolts (26,400 pounds)	108 cartons.	do	do	Delta Steel.
Bolts, nuts (64,000 pounds)	640 packs	Belgium	do	E. S. Zerwekh.
Bolts (16,400 pounds)	82 kegs.	Sweden	do	Order.
Bolts, foundation (100,000 pounds)	1,000 bags	Belgium	do	
Nuts (38,000 pounds)	175 cases	Netherlands	Los Angeles	
Iron cap screws (66,008 pounds)	189 bags.	Japan	do	
Wingnuts and nuts (5,212 pounds)	32 cases	Germany	do	
Nuts (8,000 pounds)	40 kegs.	Belgium	do	
Steel nuts (4,000 pounds)	20 kegs.	Netherlands	do	
Steel nuts (2,000 pounds)	15 cases	do	do	
Bolts W-nuts (159,194 pounds)	796 cases	Japan	do	
Screws (5,426 pounds)	35 kegs	do	do	
Hex nuts (16,610 pounds)	90 kegs.	do	do	
Nuts and bolts (33,918 pounds)	486 bags.	do	do	
Bolts and nuts (124,000 pounds)	595 kegs)	do	do	
	(25 cases)	do	do	
Brass bolts (400 pounds)	2 cases	Italy	Miami	
Screws and bolts (38,400 pounds)	192 kegs.	Japan	do	
Screw and bolts (30,800 pounds)	154 cases	do	Mobile	
Steel nuts (3,058 pounds)	15 cases	Netherlands	Norfolk	
Bolts, nuts, and screws (36,200 pounds)	181 kegs	Japan	Philadelphia	
Eye bolts (16,000 pounds)	80 cases	do	do	
Lag bolts and nuts (21,200 pounds)	106 kegs	do	do	
Carriage bolts (10,000 pounds)	50 kegs.	do	do	
Steel nuts (2,000 pounds)	10 cases	Netherlands	do	
Socket setscrews (2,800 pounds)	14 cases	Japan	San Francisco	
Steel nuts (2,400 pounds)	12 packages	do	do	
Bifurcated rivets (3,032 pounds)	18 cases	England	New York	
Bifurcated rivets (8,000 pounds)	40 cases	do	do	

NOTE.—Total pounds, 2,422,099.

Mr. CAHILL. Mr. Speaker, I rise in support of this legislation.

All of us, I am sure, recognize the importance of packaging in our ever-expanding consumer market. It has been truly stated that "packages have replaced the salesmen."

Today, in the supermarkets of our Nation, the bright-colored and large-let-

tered packages attract the buyer. As a result, care must, of course, be taken to insure against any form of misrepresentation.

The committee report has pointed out that this legislation follows the Fur Products Labeling Act, the Flammable Fabrics Act and the Textile Fiber Products Identification Act. The directive to

insure that the package label contains not only the identity of the commodity, but a separate statement of net quantity of contents, weight of contents and other description should eliminate many sales gimmicks and should go a long way in removing from the counters of this country misrepresented articles.

The regulation suggested concerns

other safety measures such as the quantity of the number of "servings," the use of "cents off," and "economy size" sales promotions. The requirement to identify the substances contained in the packaging should also bring about greater protection for the American housewife.

I realize there are many who feel that the legislation under consideration does not go far enough and this may be so. However, as has been pointed out this is a step in the right direction and if, after the implementation of this law additional abuses appear, further legislation will of course be indicated.

I hope that this legislation will reflect the desire of this Congress to bring about honest and fair packaging and that there will be a real effort on the part of all manufacturers and distributors to carry out this intent rather than to seek means of avoiding the specific provisions of the act and thus defeat the very intent of the act.

I support the legislation and urge its adoption.

Mr. BOLAND. Mr. Speaker, I rise in favor of H.R. 15440, the Fair Packaging and Labeling Act. The purposes of this so-called truth-in-labeling bill are to insure that the labels of packaged consumer commodities adequately inform consumers about their contents, and to promote labeling and packaging practices with respect to packaged consumer commodities which will facilitate value comparisons by consumers.

Although the bill in its present form is far weaker than those of us who support consumer legislation had hoped; nevertheless, passage of the measure now will at least be a step in the right direction and, hopefully, strengthening amendments can be considered by the next Congress.

Extensive hearings by congressional committees over 5 long years have produced volumes of testimony which indicate without a doubt the need for fair-labeling legislation in the interests of protecting the American consumer. The housewives of America have been terribly confused by the plethora of attractive but misleading packaging advertising greeting her with every visit to the supermarket. She has no guideposts to assist her in comparison shopping.

The Committee on Commerce of the United States Senate summed up the need for this type of additional consumer legislation in the following words:

More than 8,000 promotionally designed packages now compete for the consumer's dollar, where 20 years ago, only 1,500 confronted him. In the interim the package on the supermarket shelf has acquired, by default, the informational functions formerly performed by the friendly—or at least familiar—retail clerk. But this informational function has come into increasing conflict with the package's role as its own most enthusiastic advertisement and promotional device. And information has too often suffered at the expense of promotion.

If the consumer is to be capable of making informed choices in today's supermarket, then it is necessary not only to protect him from deliberate frauds and deceptions, but to require affirmatively that the relevant information be presented on the package in a

coherent and meaningful form and with reasonable uniformity. . . .

This bill, as it now stands, has "enough teeth" in it to aid greatly the American shopper.

It would require the labeling of containers in such a way that the buyer could determine more easily the weight or volume of contents of the many items now sold in grocery stores.

According to this bill, the contents of the package would have to be prominently displayed on the front label, against a background from which the type could be easily read. This would rule out such practices, as hard-to-read silver lettering on a white background.

Designations such as "full half quart" or "jumbo pint," would be banned.

Similarly, packages that are not completely filled and where the empty space has no functional purpose, would be outlawed.

The Government would also be given the authority to regulate the use of "cents off" labels indicating that the item was being sold at a bargain price.

Furthermore, this modified bill would authorize the Secretary of Commerce to seek voluntary industry agreement on package sizes and shapes in cases where he found that proliferation of packages had made price comparisons by consumers extremely difficult.

I believe, that in the interests of the American consuming public, H.R. 15440 should be approved immediately by the House of Representatives.

Mr. BUCHANAN. Mr. Speaker, the committee has done a very good job of revising H.R. 15440, the Fair Packaging and Labeling Act. I cannot, however, support this measure which would, in my opinion, insult the intelligence of the American housewife who certainly has the ability to use simple arithmetic to relate cost of a product to net contents, listed on labels now as required by law.

In the area of labeling, there are already laws to protect the consumer from fraudulent advertising, and I fully endorse these laws. They are necessary for the protection of the consumer public. But I do not believe that additional law is necessary at this time to further regulate labeling.

As to packaging, the act before the House would constitute a restraint upon types, sizes, and variety of packaging. Attractive packaging I believe is appreciated by customers, and adds greatly to the selling appeal of most merchandise including food products. During the holiday season, it is traditional to find a wide variety of merchandise on every counter in special holiday packaging which would not be possible if the provisions of this legislation were in force.

It is, of course, true that many a bridegroom, joining himself in wedlock to the apple of his eye, believed he was marrying a peach, but later found, when they became a pair, that he had drawn a lemon. The packaging may be better than the product, but this hardly seems an occasion for Federal law.

I cannot support this legislation which I feel is not needed in the field of label-

ing, and would restrain manufacturers and producers in packaging.

Mr. RYAN. Mr. Speaker, I am pleased to support this legislation. The need for a truth-in-packaging bill is clear to every American housewife—and should be clear to most of their husbands as well. Exhibit A is the nearest supermarket, where packages of all shapes and sizes are labeled "extra large" and "5 cents off."

The Fair Packaging and Labeling Act will insure that the quantity of the contents in each package is clearly printed thereon. Furthermore, it gives administrative agencies the power to standardize the use of words like "servings," and to regulate the use of labels such as "economy size," and "cents off."

I had hoped that we might pass even greater protective measures this session in line with my bill, H.R. 16298, which is similar to the bill sponsored by Senator HART in the other body. That bill would, for example, have given the Secretary of Health, Education, and Welfare and the Federal Trade Commission authority to establish weights and quantities for the supermarket and drugstore products covered in the bill if they determined that the existing array of containers made it difficult for consumers to compare prices.

Nevertheless, the legislation which we vote on today can be a great help to the American consumer, if vigorously enforced.

Mr. VANIK. Mr. Speaker, on April 19, 1966, I introduced legislation providing for "truth in packaging." That original legislation was directed toward protecting consumer interests in the vital area of consumer packaging and labeling.

Subsequently, on July 26, 1966, I testified before the House Committee on Interstate and Foreign Commerce and urged the adoption of strong legislation to protect the consumer.

On August 16, I testified before the House Committee on Government Operations to establish a Department of Consumer Affairs. In that testimony, I urged that such a department should be organized to record the day-by-day cost of food and other merchandise so that an item of the same quality and quantity could be followed through various degrees of price transition. It was also my hope that this Department would be concerned with packaging and quality of all consumer items since only a few of the general consumer complaints are eligible for action by the Federal Trade Commission.

I regret that it was essential during the course of committee action to dilute the bill which was recently passed by the other body which was designed to provide a basis for comparison among competing brands of packaged consumer goods. The other body adopted mandatory procedures for setting standard package sizes to eliminate the current confusion in package sizes.

The limitations of the bill reported out of the House Interstate and Foreign Commerce Committee are helpful in requiring a statement of contents on every

package label but the consumer will be left to his troublesome computations to determine whether the package he buys will be what it seems to be.

It is my hope that when the legislation is referred to the conference committee, it may be strengthened to provide greater safeguards to the consumer.

It is my further hope that the legislation that we consider today is the beginning of future congressional action to protect the consumer interests. It seems to me that the name of the manufacturer should be required to be printed on the label of every product. Today there are vast quantities of items which are not identifiable as to the source of manufacturer. The use of brand names or unmarked quantity or origin should not be countenanced.

Another critical area not covered by this proposed legislation relates to the packaging of fresh meats and poultry. Recently, I have been distressed by the skyrocketing prices and the concurrent deterioration in the quality of bacon. I was shocked to discover that there is no minimum standard provided to determine what constitutes bacon and what constitutes compressed fat and water. The only standards which exist apply to Government procurement which provides that the fat content in bacon shall not exceed 68 percent, the sale content shall not exceed 2½ percent, while the moisture content 24.2 percent. Thus, Federal purchase standards provide for no less than 5.3 percent lean meat in bacon. The average consumer is generally provided with bacon far below these Federal purchase standards. At the current prices for bacon, the consumer is paying \$14 to \$16 per pound for the lean meat values in bacon—America's most expensive food.

It therefore seems to me that legislation on packaging should also cover this vital area of meat packaging. The processor should be required to indicate on the package the fat and water content of meat and most certainly the pure meat content. The same packaging and labeling requirement should be required in all other meats where the fat and water contents vary significantly.

It is my hope, Mr. Speaker, that the legislation which we consider today will become a milestone in future legislation to protect the consumer interests with respect to packaging, labeling and quality. Our efforts should be directed toward giving the consumer a decent break at the marketplace. This should not disturb truly competitive forces in our economy which should begin to compete in truth in quantity and truth in standards of quality.

The SPEAKER. All time has expired. The question is on the motion of the gentleman from West Virginia that the House suspend the rules and pass the bill S. 985 with an amendment.

The question was taken; and the Chair announced that in the opinion of the Chair two-thirds having voted in favor thereof the rules were suspended and the bill was passed.

Mr. SPRINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 300, nays 8, not voting 124, as follows:

[Roll No. 326]

YEAS—300

Abbitt	Feighan	Madden
Adair	Findley	Mahon
Adams	Flynt	Mailliard
Addabbo	Fogarty	Marsh
Anderson, Ill.	Foley	Mathias
Anderson, Tenn.	Ford, Gerald R.	Matsunaga
Andrews, George W.	Ford, William D.	Matthews
Andrews, N. Dak.	Frelinghuysen	May
Annunzio	Friedel	Meeds
Arends	Fulton, Pa.	Miller
Ashbrook	Fuqua	Mills
Ashmore	Gallagher	Minish
Baring	Garmatz	Minshall
Barrett	Gathings	Mize
Bates	Gettys	Moore
Battin	Gibbons	Moorhead
Beckworth	Gilbert	Morgan
Belcher	Gilligan	Mosher
Bell	Gonzalez	Moss
Bennett	Goodell	Multer
Berry	Grabowski	Murphy, Ill.
Betts	Gray	Murphy, N.Y.
Bingham	Green, Oreg.	Natcher
Boggs	Green, Pa.	Nelsen
Boland	Grelgg	O'Hara, Ill.
Bow	Grover	O'Hara, Mich.
Brademas	Gubser	O'Neal, Minn.
Bray	Hagan, Ga.	Ottinger
Brooks	Hagen, Calif.	Passman
Broomfield	Haley	Patman
Brown, Clarence J., Jr.	Hall	Patten
Broyhill, N.C.	Halleck	Pelly
Broyhill, Va.	Hamilton	Perkins
Burke	Hanley	Philbin
Burton, Calif.	Hansen, Idaho	Pickle
Burton, Utah	Hansen, Wash.	Pike
Byrne, Pa.	Hardy	Poff
Callan	Harsha	Pool
Cameron	Hathaway	Price
Carey	Hays	Pucinski
Cederberg	Hechler	Quillen
Celler	Helstoski	Randall
Chamberlain	Henderson	Redlin
Chelf	Herlong	Rees
Clark	Hicks	Reid, Ill.
Clausen, Don H.	Holifield	Reid, N.Y.
Clawson, Del.	Holland	Reifel
Cleveland	Horton	Reuss
Clevenger	Hosmer	Rhodes, Ariz.
Cohelan	Howard	Rhodes, Pa.
Collier	Hull	Rivers, S.C.
Colmer	Hungate	Rivers, Alaska
Conable	Huot	Roberts
Conte	Hutchinson	Robison
Conyers	Ichord	Rodino
Cramer	Irwin	Rogers, Colo.
Culver	Jacobs	Rogers, Fla.
Cunningham	Jarman	Ronan
Curtin	Jennings	Rooney, N.Y.
Curtis	Joelson	Rooney, Pa.
Dague	Johnson, Calif.	Rosenthal
Daniels	Johnson, Pa.	Rostenkowski
Dawson	Jonas	Roudebush
Delaney	Jones, Ala.	Roush
Dent	Karsten	Rumsfeld
Denton	Karth	Ryan
Devine	Kastenmeyer	Satterfield
Diggs	Kee	St Germain
Dingell	Keith	St. Onge
Dole	Kelly	Saylor
Donohue	King, Calif.	Scheuer
Dow	King, N.Y.	Schmidhauser
Downing	Kluczynski	Schneebeil
Dulski	Kornegay	Schweiker
Duncan, Oreg.	Krebs	Secrest
Duncan, Tenn.	Kunkel	Selden
Dwyer	Laird	Shipley
Edmondson	Landrum	Shriver
Edwards, Calif.	Langen	Sickles
Ellsworth	Latta	Sikes
Erlenborn	Lennon	Skubitz
Everett	Lipscomb	Smith, Calif.
Evins, Tenn.	Long, La.	Smith, Iowa
Fallon	Long, Md.	Smith, N.Y.
Farbsteln	McCulloch	Smith, Va.
Farnsley	McDade	Springer
Farnum	McEwen	Stafford
Fasell	McFall	Staggers
	McGrath	Stanton
	Macdonald	Steed
	MacGregor	Stubblefield
	Machen	Sullivan

Talcott
Taylor
Teague, Calif.
Teague, Tex.
Tenzer
Thomson, Wis.
Trimble
Tupper
Tuten

Ullman
Vanik
Vigorito
Waldie
Watkins
Watson
Whalley
White, Idaho
White, Tex.

Whitener
Widnall
Williams
Wolff
Wyatt
Wydler
Young
Younger
Zablocki

NAYS—8

Abernethy
Buchanan
Burleson

Davis, Wis.
de la Garza
Jones, Mo.

Morton
Waggonner

NOT VOTING—124

Albert
Andrews, Glenn
Ashley
Aspinall
Ayres
Bandstra
Blatnik
Bolting
Bolton
Brock
Brown, Calif.
Byrnes, Wis.
Cabell
Cahill
Callaway
Carter
Casey
Clancy
Cooley
Corbett
Corman
Craley
Daddario
Davis, Ga.
Derwinski
Dickinson
Dorn
Dowdy
Dyal
Edwards, Ala.
Edwards, La.
Evans, Colo.
Fino
Fisher
Flood
Fountain
Fraser
Fulton, Tenn.
Gialmo
Grider
Griffiths

Gross
Gurney
Halpern
Hanna
Hansen, Iowa
Harvey, Ind.
Harvey, Mich.
Hawkins
Hébert
Johnson, Okla.
Jones, N.C.
Keogh
King, Utah
Kirwan
Kupferman
Leggett
Love
McCarthy
McClory
McDowell
McMillan
McVicker
Mackay
Mackie
Martin, Ala.
Martin, Mass.
Martin, Nebr.
Michel
Mink
Moeller
Monagan
Morris
Morrison
Morse
Murray
Nedzi
Nix
O'Brien
O'Konski
Olsen, Mont.
O'Neill, Mass.
Pepper
Pirnie
Poage
Powell
Purcell
Quie
Race
Reinecke
Resnick
Rogers, Tex.
Roncalio
Roybal
Schisler
Scott
Sennar
Sisk
Slack
Stalbaum
Stephens
Stratton
Sweeney
Thomas
Thompson, N.J.
Thompson, Tex.
Todd
Toll
Tuck
Tunney
Udall
Utt
Van Deerlin
Vivian
Walker, Miss.
Walker, N. Mex.
Watts
Weltner
Whitten
Willis
Wilson, Bob
Wilson, Charles H.
Wright
Yates

So two-thirds having voted in favor thereof, the rules were suspended and the bill as amended was passed.

The Clerk announced the following pairs:

Mr. Albert with Mr. Byrnes of Wisconsin.
Mr. Hébert with Mr. Gross.
Mr. Keogh with Mr. Cahill.
Mr. O'Neill of Massachusetts with Mr. Morse.
Mr. Leggett with Mr. Reinecki.
Mr. Edwards of Louisiana with Mr. Edwards of Alabama.
Mr. Mackay with Mr. Callaway.
Mr. Kirwan with Mrs. Bolton.
Mr. Tuck with Mr. Utt.
Mr. Fountain with Mr. Bob Wilson.
Mr. Roybal with Mr. Pirnie.
Mr. Aspinall with Mr. Martin of Massachusetts.
Mr. Cabell with Mr. Corbett.
Mr. Daddario with Mr. Derwinski.
Mr. Davis of Georgia with Mr. Ayres.
Mr. Watts with Mr. Harvey of Michigan.
Mr. Whitten with Mr. Gurney.
Mr. Wright with Mr. Fino.
Mr. Morris with Mr. Brock.
Mr. Flood with Mr. Clancy.
Mr. Evans of Colorado with Mr. Michel.
Mr. Dyal with Mr. Carter.
Mr. Moeller with Mr. Halpern.
Mrs. Mink with Mr. O'Konski.
Mr. Cooley with Mr. Martin of Nebraska.
Mr. Brown of California with Mr. Quie.
Mr. Monagan with Mr. McClory.
Mr. Blatnik with Mr. Kupferman.
Mr. Schisler with Mr. Dickinson.
Mr. McVicker with Mr. Glenn Andrews.
Mr. Bandstra with Mr. Martin of Alabama.
Mr. Sisk with Mr. Harvey of Indiana.
Mr. Slack with Mr. Johnson of Oklahoma.

Mr. Udall with Mr. Hawkins.
 Mr. Stratton with Mr. Senner.
 Mr. Dorn with Mr. Van Deerlin.
 Mrs. Griffiths with Mr. Nix.
 Mr. Pepper with Mr. Purcell.
 Mr. Fraser with Mr. Ashley.
 Mr. Fisher with Mr. Corman.
 Mr. Giaimo with Mr. Casey.
 Mr. Resnick with Mr. Craley.
 Mr. Hanna with Mr. Powell.
 Mr. Grider with Mr. Hansen of Iowa.
 Mr. Race with Mr. Olsen of Montana.
 Mr. Yates with Mr. Willis.
 Mr. Charles H. Wilson with Mr. Todd.
 Mr. Thompson of New Jersey with Mr. Sweeney.

Mrs. Thomas with Mr. Roncalio.
 Mr. Stephens with Mr. McDowell.
 Mr. Love with Mr. McCarthy.
 Mr. Tunney with Mr. Vivian.
 Mr. Walker of New Mexico with Mr. Weltner.

Mr. Morrison with Mr. Nedzi.
 Mr. O'Brien with Mr. Mackie.
 Mr. McMillan with Mr. King of Utah.
 Mr. Rogers of Texas with Mr. Jones of North Carolina.
 Mr. Stalbaum with Mr. Thompson of Texas.
 Mr. Toll with Mr. Murray.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 15440) was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on the bill just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FEDERAL AIRPORT ACT

Mr. STAGGERS. Mr. Speaker, I move to suspend the rules and pass the bill S. 3096, to amend the Federal Airport Act to extend the time for making grants thereunder, and for other purposes, which is identical in substance to the House bill H.R. 13665, scheduled for consideration today under the suspension of the rules.

The Clerk read the Senate bill, as follows:

S. 3096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(d) of the Federal Airport Act (49 U.S.C. 1104(d)) is amended by adding at the end thereof the following new paragraphs:

"(7) For the purpose of carrying out this Act in the several States, in addition to other amounts authorized by this Act, appropriations amounting in the aggregate to \$199,500,000 are hereby authorized to be made to the Administrator over a period of three fiscal years, beginning with the fiscal year ending June 30, 1968. Of amounts appropriated under this paragraph, \$66,500,000 shall become available for obligation, by the execution of grant agreements pursuant to section 12, beginning July 1 of each of the fiscal years ending June 30, 1968, June 30, 1969, and June 30, 1970, and shall continue to be so available until expended.

"(8) For the purpose of carrying out this Act in Hawaii, Puerto Rico, and the Virgin

Islands, in addition to other amounts authorized by this Act, appropriations amounting in the aggregate to \$4,500,000 are hereby authorized to be made to the Administrator over a period of three fiscal years, beginning with the fiscal year ending June 30, 1968. Of amounts appropriated under this paragraph, \$1,500,000 shall become available for obligation, by the execution of grant agreements pursuant to section 12, beginning July 1 of each of the fiscal years ending June 30, 1968, June 30, 1969, and June 30, 1970, and shall continue to be so available until expended. Of each such amount, 40 per centum shall be available for Hawaii, 40 per centum shall be available for Puerto Rico, and 20 per centum shall be available for the Virgin Islands.

"(9) For the purpose of developing in the several States, airports the primary purpose of which is to serve general aviation and to relieve congestion at airports having high density of traffic serving other segments of aviation, in addition to other amounts authorized by this Act for such purpose, appropriations amounting in the aggregate to \$21,000,000 are hereby authorized to be made to the Administrator over a period of three fiscal years, beginning with the fiscal year ending June 30, 1968. Of amounts appropriated under this paragraph, \$7,000,000 shall become available for obligation, by the execution of grant agreements pursuant to section 12, beginning July 1 of each of the fiscal years ending June 30, 1968, June 30, 1969, and June 30, 1970, and shall continue to be so available until expended."

SEC. 2. (a) Section 6(a) of such Act (49 U.S.C. 1105(a)) is amended by striking out "or 5(d) (4)" in the first sentence and inserting "5(d) (4), or 5(d) (7)".

(b) Section 6(b) (1) of such Act (49 U.S.C. 1105(b) (1)) is amended by striking out "and 5(d) (4)" and inserting in lieu thereof "5(d) (4) and 5(d) (7)" and by striking out "and 5(d) (6)" and inserting in lieu thereof "5(d) (6) and 5(d) (9)".

The SPEAKER. Is a second demanded?

Mr. SPRINGER. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. STAGGERS. Mr. Speaker, S. 3096 is a bill to amend the Federal Airport Act to extend for a 3-year period the authorization for the making of grants-in-aid for airport development.

This program began in 1947 and over 2,000 airports throughout the nation have received Federal matching funds for airport development. These airports are part of the national system of airports and as we all know, they have been essential in linking the Nation's population centers.

In 1947, less than 13 million passengers were carried by domestic air carriers. About 118 million will be carried in the fiscal year of 1967 and by 1970, it has been estimated that some 150 to 160 million passengers will be carried.

General aviation also is enjoying rapid growth. Its present number of aircraft is about 90,000 and this number can be expected to rise to 118,000 by 1970. Intensive airport maintenance and development will be required to keep pace with the many advances in aviation.

This bill continues the present program at the present \$75 million annual level of authorization. There are no substantive changes to the existing act. I believe that this is important and necessary legislation. In addition, the com-

mittee intends to undertake an intensive review of present and future aviation conditions because of the current and related airspace problems and the prospect of the substantial increases in the numbers, sizes, and speeds of aircraft.

Mr. Speaker. I urge the passage of S. 3096.

Mr. SPRINGER. Mr. Speaker, I yield myself such time as I may consume. I might say for the benefit of my colleagues that this is an extension of the present Airport Act as it now exists. The authorization is exactly the same for the 3-year period. There is \$75 million a year for a total of 3 years, which would be \$225 million. Out of that \$225 million, \$7 million would be earmarked each year for general aviation fields, and \$1.5 million a year for Guam, the Virgin Islands, and Puerto Rico.

The bill was heard in committee. There was no objection by anyone to the bill. Insofar as I know, generally, there are no objections. Certainly we should pass such a bill in this Congress giving authority for such appropriations, and I hope the bill will pass without any further objection.

Mr. HALL. Mr. Speaker, will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman from Missouri.

Mr. HALL. I appreciate the gentleman's yielding. Will the gentleman advise me whether or not adequate consideration was given in the hearings, in the development, and in the marking up of the bill—and I ask this question only because I do not find it in the report—to the advent of the very short takeoff and landing aircraft—VSTOL—and the state of the art at this time on the basis of energy and development by our new jet bypass thrust ratios for vertical takeoff—VTOL—capabilities, on even our largest commercial planes?

Mr. SPRINGER. In the hearings we tried to develop everything which we thought would be covered by this 3-year authorization. Most of the airports in this country are already completed. Practically all this money goes for extensions of runways presently in existence and enlargement of airports already in existence, in order to make it possible for our jet planes to land and takeoff in more communities than they do at the present time. Also I think we are getting ourselves into a situation to be ready for the supersonic age.

Mr. HALL. Mr. Speaker, if the gentleman will yield further, I particularly appreciate the statement he just made. I think all of us are knowledgeable of the fact that the feeder airlines, as differentiated from the trunklines, are becoming jet powered—not just jet-prop, but jet powered—and I cite the advent of the 737 and the DC-9's in particular, and the great numbers that have been assigned to the feeder lines, which did valiant service, in addition to the jetprops, I might say, during the recent extended airline mechanics strike.

It seems unusual, if we have most of the airports completed and it is just a question of extension of runways, that, paradoxically, within the time allotted under this bill we may not need this, be-

cause of the VSTOL and VTOL features, which are undoubtedly in line for all aircraft and which have been demonstrated in the armed and military services as perfectly feasible, based on the energy now developed. I would hope that we would not encumber future Congresses too much just for the extension of runways, since what we really will need will be aprons in the near future.

Mr. SPRINGER. I know what the gentleman talks about, but let me say that we do not anticipate such a situation within the next 3 years.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. Mr. Speaker, I should like to call the attention of the House to one factor.

I believe the time is going to come when we will have to reduce the percentage of the contribution of the grant by the Federal Government. As it is now, the law provides that the FAA may approve up to 50 percent of the cost. Upon inquiry, I find that no approval has been made at less than 50-percent contribution. I believe we should give thought to gradually working down. Probably in the next extension we should reduce the contribution to 40 percent, and then bring it on down to a lesser amount each time, because eventually we will have to get out of making this contribution. The airports ought to be able to stand on their own income, because the landing fees now amount to considerable sums.

Mr. SPRINGER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California, who wishes to make inquiry of the chairman of the committee.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of the legislation, but I should like to ask some questions of the gentleman from West Virginia [Mr. STAGGERS], the chairman of the committee.

Over the years we have had a continuing discussion of the matter relating to flight service stations. I know the Congress expressed concern during the past couple of years. I wonder if the chairman could tell me whether or not there is any change in the established flight service station criteria as now set up, in this legislation.

Mr. STAGGERS. Mr. Speaker, if the gentleman will yield, in answer I would say "no, not now." This was not part of this bill. But we intend to review this as soon as possible.

Mr. DON H. CLAUSEN. There is nothing in this legislation relating to flight service stations?

Mr. STAGGERS. Not in this legislation.

(Mr. DON H. CLAUSEN asked and was given permission to revise and extend his remarks.)

Mr. SPRINGER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. DEVINE].

Mr. DEVINE. Mr. Speaker, I believe the entire committee unanimously supported this legislation. However, there was one distinct understanding which should be made a part of the legislative

history, inasmuch as this will continue for a period of 3 years. It is that the committee will make an in-depth study next year on the various airports needs and expansion that will be necessary, in view of the fact that air transportation is in an explosive growing state. By 1970 all of the key commercial airlines will have converted from piston equipment to jet equipment, with the expansion problems that go with it. The committee will make an in-depth study next year, even though this is a 3-year extension.

Mr. SPRINGER. Mr. Speaker, I have no further requests for time.

Mr. JARMAN. Mr. Speaker, I rise in support of H.R. 13665 which will extend through June 30, 1970, the provisions of the Federal Airport Act. The act, which has authorized grant-in-aid appropriations for the construction and improvements of airports since 1946, must be extended once again if the airport is to keep in step with the growth and technological developments of aviation.

Mr. Speaker, a brief look at an abundance of statistical evidence will make it clear that the growth of aviation will continue to require substantial capital investment if the needs of tomorrow are to be met.

Few industries have shown such dynamic growth as civil aviation. For example, while the gross national product since 1950 has increased at an annual rate of 3.7 percent, the airlines have experienced a 14-percent average rate of growth. Profits have also shown a marked increase, and for 1966 alone, U.S. domestic and international carriers should report net earnings well in excess of one-half billion dollars.

Mr. Speaker, while past airline growth has been phenomenal, the future portends even greater growth. Airports in the next 5 years will be required to handle 55 percent more passengers; double the number of jet transports; and 64 percent more General Aviation aircraft. These are impressive forecasted increases—however they are undoubtedly on the low side—to date, aviation's actual growth has consistently exceeded forecasts by significant margins.

Not only does growth necessitate a substantial capital investment in airport facilities, Mr. Speaker, but also the changing complexion of aviation as a result of technological advances. Within a decade, aircraft capable of carrying 500 to 1,000 passengers and supersonic aircraft flying 3 times the speed of sound cannot fail to capture our imagination. Airports must begin preparing now to provide the facilities necessary to accommodate these aircraft.

The capital expenditures which will be required to produce the airport capacity needed during the next 3-year period are greatly in excess of the State and local funds which will be available. Capital expenditures have been so great in the past and will continue at a rate so high into the future that the U.S. communities which operate public airports generally are not able to produce sufficient revenues from airport users and tenants to operate and maintain

their airports. Until such time as airports are able to reach a period of stability in capital investment requirements, there is no natural end to the need for State and Federal programs to assist local airport development. Unless the Federal Government contributes its fair share, the national airport system will become the bottleneck of future air transportation in this country.

Mr. Speaker, H.R. 13665 deserves the support of the entire Congress, and I urge this body's favorable action on the bill.

GENERAL LEAVE TO EXTEND

Mr. STAGGERS. Mr. Speaker, at this time I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, I now yield such time as he may desire to the gentleman from West Virginia [Mr. HECHLER].

(Mr. HECHLER asked and was given permission to revise and extend his remarks.)

Mr. HECHLER. Mr. Speaker, I was a little disturbed to hear the previous speaker, the gentleman from California [Mr. YOUNGER], mention the possibility and the advisability of reducing the amount of Federal support for airports below 50 percent. Actually, in the light of the nationwide need for airport construction, we should be urging not only a larger total authorization, but also an even larger percentage of Federal share.

In view of the large amount of capital costs involved in these new airports and the fact that the amount of the annual authorizing level is only \$75 million, I would like to ask my colleague from West Virginia whether it would be possible for the Federal Aviation Agency to put a little more emphasis on the regional type of airport that could serve a larger number of communities and thereby spread the cost among this greater number of communities.

Mr. STAGGERS. This is being done at the present time wherever feasible and possible, I am sure it will be continued in the future.

Mr. HECHLER. I thank my colleague for that answer. There is a very good case in point, Mr. Speaker, in the discussion now going on in West Virginia. We have airports in both Huntington and Charleston, although they are only 50 miles apart and are being joined by an interstate highway. The conversion of airlines to jets in the next few years will render obsolete both airports unless runways are lengthened, and the cost at present locations is prohibitive.

Under these circumstances, it is quite logical that enlightened interests in both communities should look toward a mid-way airport of sufficient size to serve and be accessible to both cities and the entire region. Populated areas of southeastern Ohio and eastern Kentucky look with great favor on the possibility of a large regional jet airport midway between Huntington and Charleston.

Now \$12,000 does not mean much to the Pew family. Mr. Pew has been listed as one of the richest men in America with a personal fortune of close to \$100 million.

But that \$12,000 means a good deal to me, and I wonder how much it means to the minority leader.

For Mr. Pew has been listed regularly in the John Birch Society publication *American Opinion*, as a member of the editorial advisory board. He has been listed as a stockholder of Robert Welch, Inc., which publishes the John Birch Society magazine.

But that is not all.

Mr. Pew has dispensed his millions broadly. Among his other right-wing causes are: the Christian Freedom Foundation, the Citizens Foreign Aid Committee, the Committee for the Monroe Doctrine, the Committee of One Million Against the Admission of Communist China to the United Nations, the Foundation for Economic Education, the American Economics Foundation, and the Intercollegiate Society of Individualists.

And here is a surprise. Or is it a surprise? Mr. Pew had also contributed \$8,000 to the last Nixon-for-President campaign. But here is a real surprise. Who else has Mr. Pew recently supported? None other than the House Republican leader's own Governor, George Romney, of Michigan.

I really only have one basic question to ask of the minority leader—what is going on?

Who are the real money men of the Republican Party? Are they the Rockefellers and the Du Ponts? Or are they the Pews, the Woods, the Knotts, or the Looks, and the kooks? Or is there perhaps an unholy alliance between the two groups?

The John Birch Society is a serious matter. Their stated beliefs are astonishing. Their leader has said Dwight Eisenhower is a conscious agent of the Communist conspiracy. They want to impeach the Chief Justice of the Supreme Court. They want to repeal the income tax. They want to infiltrate and ultimately control the American Government.

Will the Republican Party return their money or will it use it?

Will the Republican Party continue to accept money from them?

I do hope the minority leader will see fit to answer these important questions.

FAIR PACKAGING AND LABELING ACT

The SPEAKER pro tempore. Under previous order of the House, the gentleman from New York [Mr. HALPERN] is recognized for 10 minutes.

Mr. HALPERN. Mr. Speaker, I want to voice my wholehearted support for the bill, H.R. 15440, the Packaging and Labeling Act of 1966. I have sponsored similar legislation since my earliest days in Congress.

While H.R. 15440, as amended and reported, is not as far reaching as the bill, H.R. 7493, which I introduced on April 14, 1965, it nevertheless represents a

constructive and meaningful correction of existing abuses.

By enacting this legislation, the House has taken an important step toward erecting a veritable Bill of Rights for the American consumer, who lacks a vocal, organized representation and whose interests have long been carelessly disregarded.

In testifying before the Senate Commerce Committee last year, and more recently before the House Commerce Committee on August 2 of this year, I made it clear that strong legislation was needed to rectify the misleading practices of labeling and packaging of ordinary consumer products.

The bill, as reported from committee, has been weakened. But this should not deter us now from enacting H.R. 15440, which retains intact major provisions of the original legislation.

H.R. 15440 requires the Secretary of Health, Education, and Welfare to promulgate regulations to insure that the package label bears a separate statement of net quantity of contents, which is located on the principal display panel, in adequate contrast, and in conspicuous lettering.

Regulations are to be issued determining what size packages may be represented by such descriptions as "small," "medium," and "large." When the label on any package refers to "servings," the net quantity of such servings must be specified in terms of weight or measure. The Federal Trade Commission is further authorized to regulate such promotions as "cents off" or "economy size" descriptions. Qualifying words or phrases, in conjunction with quantity of contents, are prohibited, such as use of the terms "giant quarts" or "jumbo gallons." HEW and the FTC will promulgate regulations preventing nonfunctional slack fill which involves, for example, the use of false bottoms or unnecessarily bulky packaging.

The Senate-passed version of the bill deleted an important section prohibiting deceptive pictorial matter. I urged that the House Commerce Committee include such a provision, and I am disappointed that this was not done.

Additionally, H.R. 15440 has significantly altered the provision dealing with promulgation of weights and measures for packages. The committee substituted an entirely voluntary procedure for the regulatory provisions originally contained in my bill and other prior legislation. The manufacturers are called upon to develop voluntary product standards on weights and measures. While I am skeptical as to whether this authorization is sufficiently strong to accomplish the objective, the Secretary must report back to Congress if he finds that voluntary criteria are not being worked out amongst the manufacturers, and I shall indeed be watching whether this discretionary authority is effectively implemented.

Our House committee held 18 days of hearings on this legislation. Volumes of testimony are available on the Senate side. There can be no question that a truth-in-packaging bill is both necessary and long overdue.

This measure will not increase consumer costs. As I stated on August 2 before the House Commerce Committee:

This bill preserves and enhances free and fair competition. It will not stifle the growth of industries or preclude product diversification. Ample room is left for competition in the marketing of products. The only restriction is that packaging must be honest and fair.

Today, more than 8,000 commodities compete for the consumer dollar. Labeling and packaging of these products affect consumer choice. It is essential that packaged goods identify their content adequately and provide the necessary information which allows the consumer to make an intelligent buying choice. It is my conviction that, at the present time, buyers are misled and deceived by misleading panel advertising which obscures and confuses rather than clarifies. The result is that the consumer, more often than not, does not get his money's worth in comparing like goods, because he is not given the clear, uncluttered descriptive data with which to judge intelligently.

The new and novel marketing techniques which have evolved make this legislation even more imperative.

We have accumulated convincing evidence testifying to the need for this legislation. It represents one of the most important pieces of legislation of this 89th Congress.

CORRECTION OF ROLL CALL

Mr. HALPERN. Mr. Speaker, on roll-call No. 328 I am recorded as not voting. I was present and voted "yea." I ask unanimous consent that the RECORD be corrected accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

NATIONAL GREATNESS AND THE SHORTAGE OF MONEY

(Mr. GIBBONS (at the request of Mr. ANDERSON of Tennessee) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON of Tennessee. Mr. Speaker, a recent column by Howard K. Smith in the Washington Star presented an excellent summary of several historical developments that are important factors in our growing problems caused by a shortage of money. Mr. Smith pointed out that we are caught up in "one of the most significant revolutions in history."

His comments are timely and important, particularly in regard to the great untapped resource we must develop through the war on poverty. I urge all my colleagues to review the full text of the article which follows.

NATIONAL GREATNESS AND THE SHORTAGE OF MONEY

(By Howard K. Smith)

The young American couple who have had to postpone building or buying a home of their own this year because the cost of a loan has soared out of reach are not the victims of some minor aggravation. They are caught

up in the unsettling wash of one of the most significant revolutions in history.

Capital is short not only, and not even mainly, in America. It is scarce all over the world, and because it is scarce it is demanding ridiculous prices. In America the richest industries can still pay fantastic interest rates for their investment capital, but in some nations in Europe not even the biggest can afford it.

In Germany, for example, the head of the German bankers association said recently, "We do not have a capital market in Germany any more." And the drying up of money resources has caused some of the biggest elements in the German "economic miracle"—such as Siemens, the big electrical concern, and Bayer, the chemical company—to cut back plans and cease being miraculous.

The basic cause of the shortage of money is a drastic change in the ideas people have about what makes a nation great.

For a century and more before World War II, the prime motive force of nations was to acquire exploitable foreign riches in the form of colonies. World War I was fought by Germany with her otherwise unnecessary new navy to acquire foreign empire, and by Britain and France to hold onto foreign empire. It was Japan's fanatical pursuit of a "co-prosperity sphere" that would give her all Asia to exploit, and Hitler's dream of carving an empire out of eastern Europe, and particularly the Ukraine, that started World War II.

The end of the Second World War was the watershed where notions changed. The carrier of the new philosophy was the U.S., and the message was that foreign possession is merely a glittering illusion. In fact, the way to greatness and power and riches is to carry out an intensive development within one's own nation. Not physical courage and conquest, but ingenuity, enterprise and hard work are the virtues of the new way.

The U.S. has proved it by her own development and confirmed it by forcing the worst expanders of the century, Germany and Japan, into paths of intensive internal development—with breathtakingly successful results. These two nations, whose article of basic faith used to be that they had too many people crowding too few and small resources are now the show places of the new philosophy: in even less space than before they have become vastly richer than before.

The Marshall Plan which sent roving teams of American union men and businessmen all over Europe proposing new skills for the use of aid funds, carried the gospel. It was no doubt this effort that caused the Europeans to give up with relatively little resistance their foreign empires acquired and held by so much blood.

The American way is now universal with the result that ever greater demands on ever scarcer capital sources are driving the price of money beyond the reach of the small and the weak.

The change in the philosophy that rules nations illustrates an old proposition: Success does not mean the solution of problems—it means the replacement of old problems (to solve) by new ones. The plight of the small business and the small home-builder is one new problem created by the gluttony for investment capital. Another is the capital starvation being suffered by the under-developed nations—the capital flows from one rich nation to another, not from rich to poor. These problems open new areas to governmental action at home and to international co-operation abroad.

But the opportunities created by the change in philosophies from foreign expansion to internal development are more impressive than the problems.

In America, for example, our War on Poverty takes on a whole additional aspect when seen in the light of the change. It is not only a humane program to rescue the

poor. It is the tapping of an asset of incredible promise: a reservoir or more than 30 million Americans who—when educated, trained, motivated and employed, and when articulated as a market for our industrial goods—can do more to increase our wealth and power than any colony Nineteenth Century Europe ever acquired.

(Mr. GONZALEZ (at the request of Mr. ANDERSON of Tennessee) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. GONZALEZ' remarks will appear hereafter in the Appendix.]

(Mr. GONZALEZ (at the request of Mr. ANDERSON of Tennessee) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. GONZALEZ' remarks will appear hereafter in the Appendix.]

LIFE IN WASHINGTON—I

(Mr. WAGGONNER (at the request of Mr. ANDERSON of Tennessee) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WAGGONNER. Mr. Speaker, each day, the Washington newspapers are able to carry only the most newsworthy crimes which take place here. They cannot carry them all since, ordinarily, the papers run less than 75 pages and there are other stories that must be carried. There is usually one story which reduces the sickness of the Nation's Capital into a distilled essence that conveys the picture of life here without the reader having to wade through the entire catalog. This item in the September 11 edition of the Post summarizes it better than any other:

ATTACKERS KNIFE YOUTH, CHASE HIM UNTIL HE DIES

A 19-year-old youth, bleeding from several stab wounds to his head, chest, and stomach, was chased two blocks by his attackers late Friday, and finally collapsed in front of a church. He was pronounced dead 25 minutes after the attack.

The youth, identified by police as William V. Hymes, Jr., of 2001-Maryland ave., ne., was taken from where he fell in front of the Ingram Memorial Congregational Church, 10th Street and Massachusetts Avenue, ne. to Casualty Hospital.

A companion of Hymes, identified as Ronald Hughes, 24, of 630 D st. ne., said he and Hymes were walking through Lincoln Park at 11th and East Capitol Streets when they were accosted by 15 to 20 youths.

The pair ran in different directions, but Hymes was caught, knocked down and knifed. He struggled to his feet and ran two blocks, police said, before he was brought down again.

They traced the route by following a trail of such personal items as the victim's wallet, belt and jacket that were ripped off or had fell during the running fight. There also were blood smears along the way. Hughes was not hurt.

One of the victims' six older brothers, Wesley, 20, said Hymes left home at about 8 p.m. to meet Hughes at 9th and H Streets ne. From there, he said, they were to pick up Hymes' girl friend who works in the Peo-

ples Drug Store at 11th and East Capitol Streets ne. The store is across the street from Lincoln Park. Wesley said the girl was to accompany his brother and Hughes to a party.

The victim worked at the Old Colony Laundry, 6820 Blair rd. nw., as a presser, according to police. He left Stewart Junior High School in the 8th or 9th grade, Wesley said, and took up laundering. The victim's father, William V. Hymes Sr., is a sanitary engineer with the District government.

Lt. Arthur Weber of the Homicide Squad said yesterday that several suspects are under investigation.

THE NEXT LONG STEP AGAINST POLLUTION

(Mr. HELSTOSKI (at the request of Mr. WAGGONNER) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HELSTOSKI. Mr. Speaker, on July 13, 1966, the other body unanimously passed S. 2947, to improve and make more effective programs under the Federal Water Pollution Control Act. We, in the House took action on its last Friday, passing the bill by a vote of 312 yeas.

In connection with this water pollution program, I have unanimous consent that an editorial from the Bergen Record of Hackensack, N.J., of Saturday, June 30, 1966, be placed into the RECORD as part of my remarks. The editorial states many of the reasons why such a program is necessary.

The editorial follows:

THE NEXT LONG STEP AGAINST POLLUTION

If members of the House of Representatives needed a reason for accepting forthwith the water pollution control bill which the Senate just passed unanimously—a reason, that is, more cogent than their own constituents' sharply rising awareness of the pollution menace and their sharply receding tolerance of it—this week's proceedings of the Delaware River Basin Commission should suffice. The Commission charged the little (pop. 4,000) Village of Walton, N.Y., with discharging raw sewage into the West Branch of the Delaware, whose waters then descend fragrantly into the Cannonsville Reservoir, from which New York City's innocent millions drink. Walton admits it's polluting the water. It doesn't propose to do one damned thing about it. Theory: if New York City wants its water pure, let New York City build and run a sewage treatment plant for Walton.

This is the spirit that has made an open sewer of every river system in the East. It is the spirit that has made bottled spring water one of the sleeper hot properties in the supermarkets this summer. It is the spirit that moved the Senate to dispute the right of an upstream town to prejudice the senses and safety of people doomed by geographical accident to live downstream from the reeking outfall vent of a corporate slob.

New York State voters last fall approved a \$1-billion bond-financed program for pollution abatement under which municipalities can get 6 cents of State money for every 4 of their own they spend on treatment plants. That doesn't seem to have suggested to Walton a cheap way of buying off its inferiority complex. But Walton is a symbol, not a crisis; the crisis consists of the fact that the country is dotted by Waltons, some of which will be eager to accept the terms of the Government offer spelled in the Senate bill.

Oct. 6, 1966

SENATE

15. CHILD NUTRITION. Agreed to the conference report on S. 3467, the child nutrition bill (pp. 24455-56). This bill will now be sent to the President.
16. HEMISFAIR. Passed as reported H. R. 15098, relating to U. S. participation in the HemisFair 1968 Exposition to be held in San Antonio, Texas. pp. 24391-24396
17. EDUCATION. Passed, 54-16, with amendments S. 3046, to strengthen and improve programs of assistant for elementary and secondary schools. pp. 24452-3, 24456-96
Sen. Talmadge inserted an article "United States Steps To Control Schools Seen," and inserted his newsletter discussing this subject. pp. 24431-2
The Subcommittee on Education ordered favorably reported to the full committee with amendments H. R. 14643, to provide for the strengthening of American educational resources for international studies and research. p. D962
18. LABELING AND PACKAGING. Disagreed to the House amendment to S. 985, the fair packaging and labeling bill, and conferees were appointed. House conferees have not yet been appointed. pp. 24496-8
19. FARM PROGRAM. Sen. Pearson stated that the administrative rulings, procedures, and definitions of the farm program are so complicated that he has requested a full-scale study of the matter. pp. 24422-3
Sen. Mundt inserted excerpts from his current newsletter "Parity Drops Again" and "Bad News for Livestock Producers." pp. 24439-41
Sen. Long, Mo., commended the agricultural export program, calling it a great success story, and inserted an editorial on the subject. pp. 24441-3
20. CLEAN AIR. Disagreed to House amendments to S. 3112, the clean air bill, and conferees were appointed (p. 24498). House conferees have not yet been appointed.
21. FINANCIAL INSTITUTIONS. Disagreed to House amendments to S. 3158, to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and savings and loan associations, and conferees were appointed (pp. 24498-24511). House conferees have not yet been appointed.
22. MILITARY CONSTRUCTION. The Subcommittee of the Appropriations Committee approved for full committee consideration H. R. 17637, the military construction appropriation bill. p. D961
23. FORESTRY. The Interior and Insular Affairs Committee reported with amendment H. R. 8678, to establish in the State of Michigan the Pictured Rocks National Lakeshore (S. Rept. 1681). p. 24390
24. LANDS. The Interior and Insular Affairs Committee ordered reported (but did not actually report) S. 84, to provide for reimbursement to Wyoming for improvements made on certain lands in Sweetwater Co., if and when such lands revert to the U. S.; and S. 2358, to authorize sale of U. S. phosphate interests in certain Fla., lands to the record owners of the lands. p. D961-2
25. ALASKA. Sen. Bartlett spoke on the need for better housing and communications systems in Alaska and inserted supporting articles. pp. 24428-30, 24437-8

26. WATER POLLUTION. Sen. Muskie inserted a speech by Assistant Secretary of Interior DiLuzio entitled "Water Pollution Control - An American Must." pp. 24433-5
27. HIDE EXPORTS. Sen. McGovern stated that "there has been no more obvious fiasco in Government this year than the hide export fiasco staged by the Department of Commerce." p. 24438-9
28. CITIES. Sen. Muskie inserted various speeches delivered at the Urban America Conference on the subject of urban problems. pp. 2443-9
29. APPROPRIATIONS. Received from the President proposed supplemental estimates for various departments and agencies (S. Doc. 112). p. 24389 (No items for USDA) H. R. 17787, the public works appropriations bill, 1967, was made the unfinished business. p. 24496
30. WATERSHEDS. Received from the Budget Bureau plans for works of improvements on Big Coon Creek, Ala. and Tenn., Ebenezer Creek, Ga., Spillman Creek, Kans., Mill Creek, Ky., and Hobbsville-Sunbury watershed, N. C. and Va.; to Agriculture and Forestry Committee, and Little Sandy Creek and Trail Creek, Ga., Caston-Mountain Creek, Okla., and Choctaw Creek, Tex.; to Public Works Committee. pp. 24389, 24390
31. POWER. Received from FPC a publication, "World Power Data, 1964." p. 24390
32. BONDING. Received from Treasury the annual report on the bonding of Government officers and employees. p. 24390
33. CLAIMS. Received from Treasury the annual report on claims paid under the Military Personnel and Civilian Employees Claims Act. p. 24390
34. POST OFFICE. Received the Postmaster General's annual report. p. 24390
35. FLOOD CONTROL; INFORMATION. Received from Army a proposed bill to further amend section 206 of the Flood Control Act of 1960 to authorize the Secretary of the Army to compile and disseminate information on floods and flood damages to other Federal agencies; to Public Works Committee. p. 24390
36. LEGISLATIVE PROGRAM. Sen. Mansfield announced that hopefully consideration of the public works appropriation bill would be completed today (Oct. 7), followed by consideration of the higher education bill, and that it is not anticipated that a Saturday session will be held. p. 24482

ITEMS IN APPENDIX

37. SUGAR; LOANS. Rep. O'Neill, Mass., inserted his comments concerning the financial assistance given by the Economic Development Admin. to Maine Sugar Industries, Inc. for the purpose of adding cane sugar refining capacity to a new beet sugar factory. pp. A5156-7
38. FOOD PRICES. Extension of remarks of Rep. Jarman commending the food industry and the farmer for their efforts to help keep prices down and inserting an article on this subject. pp. A5158-9

the programs to assure that the local program is meeting the needs of the community.

Limitation

SEC. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term "school or department of divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

Appropriations Authorized

SEC. 314. There is authorized to be appropriated \$40,000,000 for the fiscal year ending June 30, 1967, and \$60,000,000 for the fiscal year ending June 30, 1968, for the purposes of this title.

Repealer

SEC. 315. Part B of title II of the Economic Opportunity Act of 1964 is repealed.

Mr. MORSE. Madam President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. KENNEDY of New York. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MORSE. Madam President, I ask unanimous consent that the bill as passed by the Senate be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. Madam President, we have come to the conclusion, through the passage of this bill today, of one step on the road to helping our young people have access to the type and kind of education which will allow them to realize their innate potentialities. But I should be less than grateful and I should be less than honest if I failed to give the highest tribute to my colleagues on both sides of the aisle and to the chairman of my committee [Mr. HILL], my heartfelt thanks for this splendid cooperation I have invariably been given.

I am indebted to each and every one of the members of the subcommittee and the full committee. I also wish to pay the highest tribute to the leadership quality of the distinguished senior Senator from Montana, whose counsel on this, as on so many other occasions, has been invaluable.

But the authors of this bill are not the Senators alone who worked on it in the hearings, which were well attended and faithfully, and in the executive sessions.

They are also the Senators who, through the amendments they offered and correspondence they gave to the committee, have indelibly imprinted their mark on the bill. I hesitate to name even one because there are so many. The distinguished Senator from New Mexico [Mr. MONTANA], the distinguished Senator from Indiana [Mr. HARTKE], and the distinguished Senator from Montana [Mr. METCALF] are among the many.

I know and Senators know that there are others who worked long, hard, and faithfully with you, and to them I wish to pay tribute. To the staff of the Legislative Counsel of the Senate, and in particular Mr. Pete LeRoux and Mr.

Blair Crownover; to the Counsel of the committee, Mr. Forsythe, and to the clerk of the committee, Mr. McClure, to the clerk for the minority, Mr. Millenson, and the minority Counsel Mr. Kurzman, who until very recently worked with us; to the professional staff member of the subcommittee, Mr. Charles Lee, and to the staff of the Labor Committee, who kept us currently supplied with information and materials, I express my thanks.

In fact, may I say about Mr. Jack Forsythe and Mr. Charles Lee that without their dedicated service and the benefit of their duties far beyond the call of duty, time and time again, often far into the night, it would have been impossible for me to have brought this bill to the floor of the Senate today. To them I want to express my heartfelt thanks, as well as to the other members of the staff.

Also, our printing clerks on the committee have had a great deal of work to do this session and they have done it magnificently, and I particularly wish to thank Mr. Coffey and Mr. Otley. To Mr. Art Dufresne, assistant to the ranking minority member of the subcommittee, Mr. PROUTY, I also wish to give my thanks.

I also wish to give my heartfelt thanks to Alan Mandell and Adam Walinsky, able staff assistants of the Senator from Texas [Mr. HARBOROUGH] and the Senator from New York [Mr. KENNEDY].

In parallel fashion, I wish to pay tribute to Secretary Gardner, Commissioner Howe, and each of their associates in legislative liaison such as Dr. Ralph Huit, Dr. Sam Halperin, and on the legislative liaison staff of the Office of Education, Dr. Al Alford, and all of his associates, particularly Mr. Richard Smith and Mr. Steinhilber.

In the closing minutes of this session I know that I have omitted many, many names of many individuals who on Capitol Hill and downtown have truly deserved my thanks and the thanks of my committee, and I trust, the thanks of all American school children.

I have taken these few minutes to state these expressions of appreciation because I think too often, even those in the Senate, and I am sure this is true of the country as a whole, are not appreciative of how legislation gets passed. Often Members of the Senate themselves receive more credit than they deserve for their efforts in getting legislation passed, and the public generally does not appreciate the service that others perform. So there should be recognition for their services in having legislation passed that will accrue to the public benefit and welfare.

To all of them I want to say I shall always be grateful for their help to me.

Mr. KENNEDY of New York. Madam President, I want to rise, as I have on other occasions when we have considered legislation dealing with education, the District of Columbia, and matters really dealing with the hearts, future, and hopes of our citizens, to commend the Senator from Oregon.

As he pointed out, there is a great deal done prior to the time that legislation comes to the floor of the Senate.

I can honestly say, as a member of the Labor and Public Welfare Committee, that it would not have been possible for the Senate to consider this legislation if it had not been for the leadership and commitment of the Senator from Oregon [Mr. MORSE].

One of the most impressive things that has happened to me since I have been in the Senate of the United States has been to see the work of the Senator from Oregon in the committee, not, perhaps, as is true of others, because we are always in agreement on every matter. The Senator from Oregon expresses his views when he disagrees with anyone, whether he is in the legislative or executive branch of the Government. But, as chairman of the subcommittee, the effort and direction he gives to all his colleagues on the committee is one of the most impressive and moving things that has occurred to me since I have been in the Senate.

I say that not merely as a result of the efforts he made on the floor of the Senate today, under heavy odds, but I refer to all of the work he has done, which is never made public and which is not publicized and which is not known. The hard work he does and the effort he makes on behalf of those who are not here, on behalf of children, in terms of the improvement of our society across this land, are in the highest traditions of public service.

I want to add my commendation to the chairman of the full committee, the Senator from Alabama [Mr. HILL] who has always given leadership and direction to matters concerned with compassion for those in need.

I join the Senator from Oregon in paying tribute to Mr. Jack Forsythe and Mr. Charles Lee for the efforts they have made, who have shown not only great understanding of such legislation but great patience with the members of the committee, particularly the junior Senator from New York.

Mr. MORSE. Madam President, I just want to say that I am proud to know that I am leaving behind for my descendants to read the flattering and generous comments made by the Senator from New York. As I have said outside the Senate, in many platforms throughout the country, he is one of the great statesmen of our times. I shall be proud to leave behind me this heritage.

Mr. KENNEDY of Massachusetts. Madam President, I would like to echo the sentiments which have been expressed this afternoon in commending the distinguished chairman of the subcommittee, the floor manager of the bill, Senator MORSE.

Not all of us who are on the Labor and Public Welfare Committee have the privilege of serving on the Education Subcommittee. Nevertheless, some of the junior members of the full committee have been interested in the cause of education, and we have always found the distinguished chairman of the subcommittee has interested himself in those causes and has taken our causes as his causes, always with the understanding, concern, and interest which brings to any ideas we may have the great wealth

of his understanding and experience which are his.

As a member of the full committee, I express my admiration and respect for the distinguished Senator from Oregon and echo the sentiments which have been expressed.

Speaking for my own State, there will be hundreds of thousands of children who will be better served because of this bill and because of the deep and abiding concern about their well-being.

Mr. MORSE. Madam President, I say, in response to the generosity of the Senator from Massachusetts, that we would not have the education legislation that we have passed through our committee and through the Senate, and which has become the law of the land, if we had not had his many contributions by way of suggestions and amendments to that legislation.

There flashes through my mind, for example, the contribution he and the Senator from Wisconsin [Mr. NELSON] made 2 years ago in connection with the Teachers Corps title of the Higher Education Act of 1965. That illustrates well the vision and the looking ahead of the Senator from Massachusetts and the Senator from Wisconsin. We have not, as yet, developed the Teachers Corps to the point that we must develop it. It must be expanded. It is in trouble, as we know, suffering from under funding, but it is not in trouble as far as the soundness of its educational philosophy is concerned. It is not in trouble from the standpoint of justification, for it meets the needs of the underprivileged little boys and girls living in the poverty-stricken school districts of this country. I respond to the Senator's kind remarks by paying this tribute to him, for his efforts in connection with not only that part of the Higher Education Statute, but for a whole series of amendments to educational legislation that he has offered since he has been in the Senate, each of which has made a great contribution to the educational structure of this country, and I thank him.

Mr. MANSFIELD. Mr. President, the tributes already made to the senior Senator from Oregon [Mr. MORSE] are all well deserved and fully merited. Today the Senate witnessed again his powerful and effective advocacy, and the Nation has benefited with an outstanding elementary and secondary education measure. Its broad acceptance can be attributed only to the outstanding manner in which it was guided by Senator MORSE. His persuasive abilities—abundantly demonstrated today—are unsurpassable. His articulate and clear responses coupled with his broad and acknowledged expertise in the area of education problems and needs made successful action a certainty.

I add only that his unmatched ability observed today and the great achievement obtained are just typical of Senator MORSE's long and abundant record of magnificent public service. The Senate, indeed the Nation, are in his debt.

Commendation must go equally to the senior Senator from New York [Mr. JAVITS] whose brilliant support and cooperation as the ranking minority mem-

ber of the Committee on Labor and Public Welfare served immensely to assure this great success. Joining Senator JAVITS for his diligent work and outstanding contribution both in committee and on the floor was the junior Senator from Vermont [Mr. PROUTY], the ranking minority member of the Education Subcommittee.

The junior Senator from New York [Mr. KENNEDY] also must share the credit for this achievement. His deep appreciation of the problems involved in our education systems was made vastly clear during the discussion on the floor. We certainly are grateful for his fine contributions.

Others too deserve high commendation for joining to assure efficient and successful action. The assistance of the junior Senator from Massachusetts [Mr. KENNEDY] along with the junior Senator from New Mexico [Mr. MONROYA] was thus greatly welcomed. Notably too the typically outstanding cooperation of the distinguished minority leader [Mr. DIRKSEN] made possible the final disposition of the measure without undue delay. The same may be said of the splendid cooperation of the senior Senator from Indiana [Mr. HARTKE] and the junior Senator from Arizona [Mr. FANNIN].

To the entire Senate I express my appreciation for obtaining another outstanding achievement—with efficiency, with order and with reasonable dispatch.

PUBLIC WORKS APPROPRIATIONS, 1967

Mr. MANSFIELD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1640, H.R. 17787. I do this so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 17787) making appropriations for certain civil functions, administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Inter-oceanic Canal Study Commission, the Delaware River Basin Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1967, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

FAIR PACKAGING AND LABELING ACT

Mr. MAGNUSON. Madam President, I ask that the Chair lay before the Senate the amendment of the House of Representatives to S. 985.

The PRESIDING OFFICER laid before the Senate the amendment of the

House of Representatives to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, which was, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Fair Packaging and Labeling Act".

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label; and

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) (i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or, in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

(iii) if on a package labeled in terms of linear measure, shall be expressed in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

(iv) if on a package labeled in terms of measure of area, shall be expressed in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.

(4) For purposes of paragraph (3) (A) (ii) of this subsection, the term "random package" means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in non-deceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to pre-

vent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) require, on the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving;

(3) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(4) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and

(B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

(5) prevent the nonfunctional-slack-fill of packages containing consumer commodities. For purposes of paragraph (5) of this subsection, a package shall be deemed to be non-functionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

(e) If (1) after one year after the date on which the Secretary of Commerce first makes the request of manufacturers, packers and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been

observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act of practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purposes of this Act—

(a) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of section 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b) (1) and 356);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term "person" includes any firm, corporation, or association.

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an anti-trust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Federal Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on July 1, 1967: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity), may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

Mr. MAGNUSON. Madam President, I move that the Senate disagree to the amendment of the House and request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. PASTORE, Mr. HART, Mr. CANNON, Mr. COTTON, and Mr. MORTON conferees on the part of the Senate.

AMENDMENT OF CLEAN AIR ACT

Mr. MANSFIELD. Madam President, I ask that the Chair lay before the Senate the amendments of the House of Representatives to S. 3112.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3112) to amend the Clean Air Act so as to authorize grants to air pollution control agencies for maintenance of air pollution control programs in addition to present authority for grants to develop, establish, or improve such programs; make the use of appropriations under the act more flexible by consolidating the appropriation authorizations under the act and deleting the provision limiting the total of grants for support of air pollution control programs to 20 per centum of the total appropriation for any year; extend the duration of the programs authorized by the act; and for other purposes, which were, on page 2, line 5, strike out "\$46,000,000" and insert "\$39,000,000"; on page 2, line 6, strike out "\$70,000,000" and insert "\$62,000,000"; on page 2, line 7, strike out "\$80,000,000" and insert "\$71,000,000"; on page 2, line 19, after "agencies" insert "in an amount"; and on page 3, line 13, after "control", insert:

Such next to the last sentence is further amended by inserting immediately before the period at the end thereof the following: "; and no agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Secretary is satisfied that such grant will be so used as to supplement and, to the extent practicable, increase the level of State, local, and other non-Federal funds that would in the absence of such grant be made available for the maintenance of such program, and will in no event supplant such State, local, and other non-Federal funds".

Mr. MANSFIELD. Madam President, I move that the Senate disagree to the amendments of the House and request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. MUSKIE, Mr. MOSS, Mr. HARRIS, Mr. BOGGS, and Mr. MURPHY conferees on the part of the Senate.

FINANCIAL INSTITUTIONS SUPERVISORY ACT OF 1966

Mr. MANSFIELD. Madam President, on behalf of the Senator from Virginia [Mr. ROBERTSON], I ask that the Chair lay before the Senate the amendment of the House of Representatives to the bill (S. 3158).

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 3158) to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loan associations, and for other purposes, which was, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Financial Institutions Supervisory Act of 1966".

TITLE I—PROVISIONS RELATING TO THE FEDERAL HOME LOAN BANK BOARD AND THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 101. (a) Subsection (d) of section 5 of the Home Owners' Loan Act of 1933 (12

16. PACKAGING AND LABELING. Conferees were appointed on S. 985, the fair packaging and labeling bill. Senate conferees have been appointed. p. 25148
17. TARIFF. Conferees were appointed on H. R. 11216, relating to the tariff treatment of articles assembled abroad of products of the U. S. Senate conferees have not been appointed. p. 25148
18. UNEMPLOYMENT INSURANCE. Conferees were appointed on H. R. 15119, to extend and improve the Federal-State unemployment compensation program. Senate conferees have been appointed. p. 25148
19. BANKING. Agreed to the conference report on S. 3158, to strengthen the regulatory and supervisory authority of Federal agencies over insured banks and insured savings and loan associations. p. 25161
20. SUMMER LUNCH. The Daily Digest states that the Rules Committee "denied a rule" on H. R. 9339, to protect the health and well-being of the Nation's children by establishing a special summer lunch program. p. D993
21. INTEREST RATES. Rep. Patman expressed concern over the tight money situation and commended and inserted articles about the Open Market Committee's role in the current high interest policies and the effect of such policies on the building trade. pp. 25211-2
22. WHEAT PRICES. Rep. Dole stated that "President Johnson and Secretary of Agriculture Orville Freeman have clearly and repeatedly demonstrated their determination to keep the price of farm commodities low," and listed "four primary reasons "for the wheat price slump. p. 25215
23. FOREIGN IMPORTS. Rep. Haley concurred in and inserted a statement by Rep. Sikes supporting H. R. 17248, to amend the Fair Labor Standards Act of 1938 to establish procedures to relieve domestic industries and workers injured by increased imports from low-wage areas. pp. 25214-5
24. FARM PROGRAM. Rep. Nelsen spoke on the migration of farmers from the farm to the cities and suggested that if the "Secretary would stop his actions which lower the prices farmers receive" it would counteract the migration from the farms. p. 25227
Rep. Stalbaum praised the administration's farm program and said that farm bills passed during this administration had produced the first balanced agricultural economy in half a century. p. 25228
25. SUGAR. Rep. Hathaway inserted the text of his letter answering questions relative to the "worth and feasibility of a sugar refinery that is nearing completion in Maine" concluding that this refinery will help bring New England sugar prices in line with the rest of the U. S. and will preserve New England jobs. p. 25236
26. LEGISLATIVE RECORD. Rep. Berry reviewed major legislative accomplishments of the 89th Congress. pp. 25218-9
27. LEGISLATIVE PROGRAM. The "Daily Digest" states that on Thurs. the House will consider the demonstration cities bill.

BILLS INTRODUCED

28. HOLIDAY. H. R. 18315 by Rep. Hanley, H. R. 18319 by Rep. Robison, H. R. 18327 by Rep. Wydler and H. R. 18330 by Rep. Morse, declaring October 12 to be a legal holiday; to Judiciary Committee.
29. EDUCATION. H. R. 18322 by Rep. Blatnik, to amend the Vocational Education Act of 1963 to strengthen the work-study program for vocational education students to Education and Labor Committee.
30. EROSION CONTROL. S. 3903 by Sen. Nelson, to provide for the control and prevention of erosion and sediment damage on rivers and streams by this Department; to Public Works Committee. Remarks of author pp. 25262-4

BILL APPROVED BY THE PRESIDENT

31. CHILD NUTRITION. S. 3467, the child nutrition bill. Approved Oct. 11, 1966 (Public Law 89-642).

PRINTED HEARINGS RECEIVED BY THIS OFFICE

32. APPROPRIATIONS. H. R. 17788, foreign assistance and related agencies appropriations for 1967. S. Appropriations Committee.
H. R. 17787, public works appropriations for 1967. Parts 1 through 4. S. Appropriations Committee.
33. WATER POLLUTION. Water pollution--Great Lakes. Part 2. H. Government Operations Committee.
34. PERSONNEL; LEAVE. H. R. 11434, Federal employees' administrative leave for hurricane or severe weather conditions. H. Post Office and Civil Service Committee.
35. COOPERATIVES. S. 109, discrimination against members of farmer cooperatives. Part 2. S. Agriculture and Forestry Committee.
36. CENSUS. 1970 census questions. H. Post Office and Civil Service Committee.
37. ORGANIZATION. H. R. 7179, creating a Dept. of Consumers. H. Government Operations Committee.
38. PUBLIC WORKS. Public works authorizations, 1966 (rivers and harbors--flood control, and multiple-purpose projects). S. Public Works Committee.

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COMMITTEE HEARINGS OCT. 13:

Poverty and production of fish protein concentrate, conferees (exec).

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United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 89th CONGRESS, SECOND SESSION

Vol. 112

WASHINGTON, WEDNESDAY, OCTOBER 12, 1966

No. 175

House of Representatives

The House met at 12 o'clock noon.

Rev. Marcus A. Earp, Minister, Eutaw Methodist Church, Baltimore, Md., offered the following prayer:

Be watchful, stand firm in your faith, be courageous, be strong. Let all that you do be done in love.—I Corinthians 16: 13, 14.

Let us pray.

O Lord our God, we pause to praise Thee for the life and the love which Thou hast given us. We praise Thee for opportunities to serve Thee and our fellow men.

Today, we remember the faith and courage of Christopher Columbus, who was willing to venture across uncharted seas because of his willingness to put a theory to a test. May we have such faith and courage.

Help us rediscover America and the opportunities therein. Bestow upon us the grace to discover Thy plan for this Nation and the courage to follow it. We need Thy guidance for without it we can do nothing. In the Master's name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 7648. An act to authorize long-term leases on the San Xavier and Salt River Pima-Maricopa Indian Reservations, and for other purposes;

H.R. 8436. An act to amend the tariff schedules of the United States with respect to the dutiable status of watches, clocks, and timing apparatus from insular possessions of the United States;

H.R. 11775. An act to provide for the popular election of the Governor of Guam, and for other purposes;

H.R. 11777. An act to provide for the popular election of the Governor of the Virgin Islands, and for other purposes; and

H.R. 15748. An act to amend title 10, United States Code, to authorize a special 30-day period of leave for a member of a

uniformed service who voluntarily extends his tour of duty in a hostile fire area.

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 3035. An act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15941) entitled "An act making appropriations for the Department of Defense for the fiscal year ending June 30, 1967, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17787) entitled "An act making appropriations for certain civil functions administered by the Department of Defense, the Panama Canal, certain agencies of the Department of the Interior, the Atomic Energy Commission, the Atlantic-Pacific Interoceanic Canal Study Commission, the Delaware River Basin Commission, the St. Lawrence Seaway Development Corporation, the Tennessee Valley Authority, and the Water Resources Council, for the fiscal year ending June 30, 1967, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3314) entitled "An act to require premarital examinations in the District of Columbia, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9985) entitled "An act to provide for the mandatory reporting by physicians and hospitals or similar institutions in the District of Columbia of injuries caused by firearms or other dangerous weapons."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 10304) entitled "An act to provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2444. An act to authorize the disposal of the Government-owned long-lines communication facilities in the State of Alaska, and for other purposes.

COMMUNICATION FROM THE COMMITTEE ON PUBLIC WORKS

The SPEAKER laid before the House the following communication from the Committee on Public Works, which was referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS,
CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., October 7, 1966.

HON. JOHN W. MCCORMACK,
Speaker of the House,
The Capitol, Washington, D.C.

MY DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959 for the construction and alteration of public buildings, the Committee on Public Works of the House of Representatives on October 6, 1966, approved the following projects which were transmitted to this committee from the General Services Administration:

Arizona: Tucson—(a) Federal Office Bldg.; (b) Post Office.

Arkansas: Batesville—Post Office, Courthouse and Federal Office Bldg.

California: Los Angeles—Federal Office Bldg. Parking Facility (Supplement). W. Los Angeles—Post Office. San Ysidro—Border Station.

Florida: Jacksonville—Post Office.

Georgia: Atlanta—(a) Courthouse and Federal Office Bldg.; (b) Post Office; (c) Post Office and Courthouse (Alt.). Griffin—Post Office and Federal Office Bldg. Rome—Post Office and Courthouse. Waycross—Post Office, Courthouse and Federal Office Bldg.

Idaho: Porthill—Border Station (Revised).

Illinois: Alton—Courthouse and Federal Office Bldg. Carbondale—(a) Post Office; (b) Post Office (Alt.). Chicago—GSA Federal Records Center.

Maine: Waterville—Post Office and Federal Office Bldg.

Mississippi: Oxford—Post Office, Courthouse and Federal Office Bldg.

Missouri: St. Louis—Post Office (Ext. and Alt.); Ordnance Plant (Alt.).

New Hampshire: Manchester—Post Office and Federal Office Bldg.

New York: Champlain—Border Station. Hyde Park—Franklin D. Roosevelt Library (Ext.). New York—Post Office (Ext.). Syracuse—(a) Post Office; (b) Courthouse and Federal Office Bldg.

North Carolina: Charlotte—(a) Post Office; (b) Post Office and Courthouse (Alt.).

Ohio: Cleveland—Post Office, Customhouse and Courthouse (Alt.). Dayton—(a) Post Office (Rev.); (b) Courthouse and Federal Office Bldg. Mansfield—Post Office and Federal Office Bldg.

Rhode Island: Woonsocket—Post Office and Federal Office Bldg.

South Carolina: Florence—Post Office, Courthouse and Federal Office Bldg.

South Dakota: Rapid City—(a) Post Office; (b) Federal Office Bldg.

Texas: Fort Worth—Federal Office Bldg. Parking Facility (Supplement); Federal Center (Formerly Army Depot) (Alt.). Tyler—Post Office and Courthouse (Ext.).

Virgin Islands: Charlotte Amalie—Post Office, Courthouse and Fed. Office Bldg.

Virginia: Roanoke—(a) Post Office; (b) Federal Office Bldg; (c) Post Office and Courthouse (Alt.).

Washington: Wenatchee—Post Office and Federal Office Bldg. (Rev.).

West Virginia: Morgantown—Post Office and Federal Office Bldg.

Wisconsin: La Crosse—Post Office and Courthouse.

Washington, D.C.: (a) Pa. Ave. Annex and Grand Plaza Parking Facility; (b) Internal Revenue Bldg. (Ext.) (Federal Triangle); South Portal—Federal Office Bldg.

Sincerely yours,

GEORGE H. FALLON,
Chairman.

FAIR PACKAGING AND LABELING ACT

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference requested by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, FRIEDEL, MACDONALD, JARMAN, SPRINGER, and YOUNGER.

TO AMEND INTERNAL REVENUE CODE OF 1954 TO PROMOTE SAVINGS UNDER THE AUTOMATIC DATA PROCESSING SYSTEM

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6958) to amend the Internal Revenue Code of 1954 to promote savings under the Internal Revenue Service's automatic data processing system, with a Senate amendment thereto,

disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS, KING of California, BOGGS, KEOGH, BYRNES of Wisconsin, CURTIS, and UTT.

TARIFF TREATMENT OF ARTICLES ASSEMBLED ABROAD OF PRODUCTS OF THE UNITED STATES

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11216) relating to the tariff treatment of articles assembled abroad of products of the United States with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS, KING of California, BOGGS, KEOGH, BYRNES of Wisconsin, CURTIS, and UTT.

TO EXTEND AND IMPROVE THE FEDERAL-STATE UNEMPLOYMENT COMPENSATION PROGRAM

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 15119) to extend and improve the Federal-State unemployment compensation program, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas? The Chair hears none, and appoints the following conferees: Messrs. MILLS, KING of California, BOGGS, KEOGH, BYRNES of Wisconsin, CURTIS, and UTT.

TRIBUTE TO DR. GEORGE W. CALVER

(Mr. McCORMACK asked and was given permission to address the House.)

Mr. McCORMACK. My dear friends and colleagues, I know that, like myself, you will always remember with fond recollection—and he will always be a treasured part of our memory—our distinguished physician in the Capitol, Dr. George W. Calver.

After a long and distinguished career Dr. Calver, who is one of my dearest friends and a friend of hundreds and hundreds of Members of Congress past and present, has voluntarily retired and has earned the retirement, which takes effect today, as a result of which the Congress will be deprived of a beloved physician, a valued friend, and a dedicated naval officer. I honestly do wish that Dr. George W. Calver might never retire, but in the exercise of his judgment he has voluntarily done so. I know that in retirement he will lead an active life, because he is possessed of a dedicated mind. In talking with him I know he is going to lead an active life in medical research, in trying to probe into and contribute toward the benefit of mankind in connec-

tion with making progress in solving some of the ills which afflict human beings.

Dr. Calver has been the physician of the House since 1928. His arrival was far from being accidental. Before he was assigned here three Members of Congress collapsed in a single month. One Member died in his office after 2 hours without medical attention because there was no physician in the House or the Senate. Soon after this tragic incident Representative Fred Britten, of Illinois, the chairman of the House Naval Affairs Committee, conferred with Speaker Nicholas Longworth regarding the placement of a naval medical officer in attendance at the Capitol. On December 5, 1928, Chairman Britten submitted House Resolution 253 of the 70th Congress which was agreed to unanimously and which, *Resolved*, That the Secretary of the Navy is hereby requested to assign a medical officer of the Navy to be in attendance at the Hall of the House of Representatives during the session of such House. Lieutenant Commander Calver then—now vice admiral, receiving his last promotion only recently, which he richly deserved—Lieutenant Commander Calver then was serving at the old Naval Dispensary in Washington. He was assigned by the Secretary of the Navy to this duty on December 8, 1928. Three years later, in 1931, Congress prohibited Dr. Calver's transfer. I know about it because I was one of those who made a contribution in this respect. Thus he became the first physician to administer officially to Members of Congress. It is impossible for me at this time to go into all of the details of the wonderful life of our dear friend. I shall insert further remarks in the RECORD in this regard and for that purpose I now ask unanimous consent.

The SPEAKER pro tempore (Mr. UDALL). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. McCORMACK. No office space was supplied to Dr. Calver when he was first assigned. He carried his office with him—in his medical bag; his center of operations was the Democratic cloak room. By 1930, when he was ordered by Secretary of the Navy Wilbur to report to the Vice President for duty as medical officer for that body, the essential nature of his service was widely recognized. Members of Congress began to make rooms in the Capitol available to the attending physician. Representative Finis Garrett of Tennessee donated the room where the present office is situated, where our late friend Bob Perry had his desk. Representative Tilson, of Connecticut, gave what is today the physiotherapy room; and Speaker Garner, of Texas, made available space which has been used as the drug room. Speaker Rayburn was instrumental in partitioning the corridor to make available space for the current laboratory. The enclosure of the air well in the west central portion of the Capitol has recently permitted further enlargement of the facilities.

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

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Issued Oct. 17, 1966
For actions of Oct. 14, 1966
89th-2nd; No. 177

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HIGHLIGHTS: House passed demonstration cities bill including rural-housing amendments. House received conference report on packaging-labeling bill. House committee reported supplemental appropriation bill.

HOUSE

1. HOUSING LOANS. Passed, 178-141, with amendments S. 3708, the proposed Demonstration Cities and Metropolitan Development Act of 1966, which includes amendments to the rural-housing law. House conferees were appointed. Senate conferees have not been appointed. pp. 25857-931, 25951
2. PACKAGING AND LABELING. Received the conference report on S. 985, to prevent the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities (H. Rept. 2286). pp. 25937-40

3. APPROPRIATIONS. The Appropriations Committee reported H. R. 18381, the supplemental appropriation bill (H. Rept. 2284). p. 25996
Agreed to the conference report on H. R. 17637, the military construction appropriation bill. pp. 25933-4
Conferees were appointed on H. R. 17636, the D. C. appropriation bill.
Senate conferees have been appointed. p. 25851
Rep. Mahon reviewed congressional action on appropriation requests and inserted a table on this matter. pp. 25980-2
4. CROP-LIVESTOCK ESTIMATES. Rep. Whitten commended the work done under the Department's crop and livestock reporting system. p. 25942
5. EDUCATION. Conferees were appointed on H. R. 14644, to extend and amend the Higher Education Facilities Act. Senate conferees have been appointed. p. 25932
Substitute Republican House conferees were appointed on H. R. 13161, to provide for additional aid to elementary and secondary schools. p. 25932
6. INTEREST RATES. Rep. Patman spoke against high interest rates and Federal Reserve Board policies. pp. 25940-2
7. FARM PROGRAM. Rep. Nelsen inserted the Farm Journal Poll and asked what poll Secretary Freeman is reading. pp. 25949-51
Rep. Langen claimed Secretary Freeman is "antifarmer" and asked that he resign. pp. 25953-4
8. FOOD PRICES. Rep. McVicker gave a program to combat high food prices, especially through consumer resistance. pp. 25992-4
9. INFORMATION. Rep. Morton inserted an article saying the new "freedom of information" law will not protect the public's "right to know" unless the people are vigilant. pp. 25951-3
10. REDWOOD PARK. Rep. Cohelan spoke in favor of establishment of a Redwood National Park. p. 25995
11. TARIFF. The Ways and Means Committee reported without amendment H. R. 13363, to extend the time within which certain requests may be filed under the Tariff Schedules Technical Amendments Act of 1965 (H. Rept. 2281). p. 25996
This Committee also reported without amendment H. R. 16160, to amend the tariff schedules regarding classification of Chinese gooseberries (H. Rept. 2282). p. 25996
12. FARM LOANS. The Agriculture Committee reported with amendments H. R. 9151, to permit release of valueless Farmers Home Administration liens (H. Rept. 2279). p. 25996
13. TAXATION. The Ways and Means Committee voted to report (but did not actually report) H. R. 7030, amended, to allow a farmer to deduct from gross income water assessments levied by irrigation ditch companies, etc. p. D1006
14. LEGISLATIVE PROGRAM. Rep. Boggs announced the legislative program: Mon., Consent Calendar and various bills under suspension of the rules, which he listed; Tues., Private Calendar; Tues. and balance of week, supplemental appropriation bill and other measures, which he listed. pp. 25932-3

FAIR PACKAGING AND LABELING ACT

OCTOBER 14, 1966.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 985]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That this Act may be cited as the "Fair Packaging and Labeling Act"*.

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer

commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label;

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A)(i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

(iii) if on a package labeled in terms of linear measure, shall be expressed both in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

(iv) if on a package labeled in terms of measure of area, shall be expressed both in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed; and

(4) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving.

(5) For purposes of paragraph (3)(A)(ii) of this subsection the term "random package" means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: Provided, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

(2) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any

printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(3) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and (B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

(4) prevent the nonfunctional-slack-fill of packages containing consumer commodities.

For purposes of paragraph (4) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

(e) If (1) after one year after the date on which the Secretary of Commerce first makes the request of manufacturers, packers, and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

PROCEDURE FOR PROMULGATION OF REGULATIONS

SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession or the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purposes of this Act—

(a) The term "consumer commodity", except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading "Bureau of Animal Industry" of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

(3) any drug subject to the provisions of section 503(b)(1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1) and 356);

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers

to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term "person" includes any firm, corporation, or association.

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Federal Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on July 1, 1967: Provided, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type

of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

And the House agree to the same.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
TORBERT H. MACDONALD,
JOHN JARMAN,
WILLIAM L. SPRINGER,
J. ARTHUR YOUNGER,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
PHILIP A. HART,
HOWARD CANNON,
NORRIS COTTON,
THRUSTON B. MORTON,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment strikes out all of the Senate bill after the enacting clause and inserts a substitute. The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for both the Senate bill and the House amendment. The differences between the House amendment and the conference substitute are described below, except for clarifying, technical, and conforming changes.

"PRICE" VERSUS "VALUE" COMPARISONS

Section 2 of the Senate-passed bill states that the label on packages of consumer commodities should facilitate "price" comparisons, and section 5(c) of the Senate-passed bill provides that the discretionary regulatory requirements would be applicable where necessary to facilitate "price" comparisons. In both instances, the House amendment uses the term "value" in lieu of "price." The conference substitute adopts the House version and uses the term "value" in both instances. The conferees wish to make clear that the concept of "value comparison" is broader than the concept of "price comparison" and includes the latter within the former as a very important factor in making a value comparison.

STATEMENT OF NET QUANTITY

The Senate-passed bill provided that the statement of net quantity, if expressed in terms of weight or liquid measure, on any package of a consumer commodity containing less than 4 pounds or 1 gallon, would have to be expressed in ounces or in whole units of pounds, pints, or quarts. The House amendment, on the other hand, provided that in the case of such a package, the statement of net quantity be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or, in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart.

The House amendment also made special provisions for "random packages." Random packages, under the House amendment, would have the statement of net quantity set forth in pounds and decimal fractions of the pound carried out to not more than two decimal places to permit the continued use of automatic weighing machines.

The House amendment also specified the statement of net quantity which must appear on packages of consumer commodities which are labeled in terms of linear or area measure. The Senate-passed bill contained no special provisions with respect to these packages.

The conference substitute is the same in all these respects as the House amendment.

SERVINGS

Under section 5(c)(2) of the Senate-passed bill, the appropriate promulgating authority was given authority to establish and define the net quantity of any commodity which would constitute a serving, if that commodity was distributed to retail purchasers in a package with a label which bore a representation as to the number of servings provided by the net quantity of the contents contained in the package. In the same context, the House amendment provided that the promulgating authority could require that the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall also bear a statement of the net quantity of each such serving.

The conference substitute adopts the language of the House amendment but transfers it from section 5(c) (the discretionary provisions) to section 4(a) of the legislation (the mandatory provisions). Thus, under the conference substitute, the appropriate promulgating authority would be required to issue regulations providing that the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package also bear a statement of the net quantity of each such serving.

INGREDIENTS

Section 5(c)(4) of the Senate-passed bill would have authorized each promulgating authority to require that information with respect to the ingredients and composition of any consumer commodity be placed upon the label of the package containing that commodity. The House amendment would authorize each promulgating authority to require that the label of each package containing a nonfood bear (A) the common or usual name of such commodity and (B) in case such commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance.

The conference substitute is the same in this respect as the House amendment.

SLACK-FILL

The House amendment would authorize the promulgating authority to prevent the nonfunctional slack-fill of packages containing consumer commodities. The Senate-passed bill contained no comparable provisions.

The conference substitute is the same in this respect as the House amendment.

STANDARDIZATION OF WEIGHTS AND MEASURES

Section 5(d) of the Senate-passed bill provides that the promulgating authority may determine that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair the ability of consumers to make price per unit comparisons. In case of such a determination, unless the industry adopts voluntary product standards, the promulgating authority may issue regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity would have to be packaged in order to be distributed in commerce for retail sale.

The House amendment would authorize the Secretary of Commerce to determine that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed, and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities. In such a case, the Secretary is directed to request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such a commodity or commodities. If, after 1 year after the date of such request, the Secretary determined that such a standard will not be published or, if such a standard has been published, that it has not been observed, he would be required to promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

The conference substitute is the same in this respect as the House amendment.

FEDERAL PREEMPTION OF STATE LAWS

Section 12 of the Senate-passed bill provides that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of the contents of the package of any consumer commodity covered by the act which differs from the requirements of section 4 of the act or regulations promulgated pursuant thereto.

The House amendment would preempt the laws of the States or political subdivisions insofar as they may now or hereafter provide for the labeling of net quantity of contents of the package of any consumer commodity covered by the act which are less stringent than or require information different from the requirements of section 4 of the act or regulations promulgated pursuant thereto. Language from the House report explaining these provisions is pertinent. It provides that preemption would take place to the extent that "State laws or State regulations with respect to the labeling of net quantity of contents of packages impose inconsistent or less stringent requirements than are imposed under section 4 of this legislation." The conference substitute is the same in this respect as the House amendment.

EFFECTIVE DATE

Section 13 of the Senate-passed bill provides that it shall take effect on the first day of the sixth month beginning after the date of its enactment.

The House amendment provides that the legislation shall take effect on July 1, 1967. Both bills provide authority for extending the effective date for a period of 1 year with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

The conference substitute is the same in this respect as the House amendment.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
TORBERT H. MACDONALD,
JOHN JARMAN,
WILLIAM L. SPRINGER,
J. ARTHUR YOUNGER,
Managers on the Part of the House.



The Senate amendment contained the following effective date provisions:

1. The provision relating to notification and advertising of fire safety standards was to become effective 120 days after enactment of this legislation.

2. The provision relating to denial of clearance to vessels found to be unsafe was to become effective upon enactment of this legislation.

3. The provision relating to the establishment of financial responsibility to meet liability for death or injury was to become effective 6 months after enactment of this legislation.

4. The provision relating to upgrading safety standards on U.S. passenger vessels was to become effective on November 2, 1968.

CONFERENCE SUBSTITUTE

The substitute agreed to in conference follows closely the provisions of the Senate amendment with the following modifications:

1. The requirement of advertising fire safety standards has been broadened to include all safety standards. The Secretary of the department in which the Coast Guard is operating is responsible for promulgating regulations to implement this provision. The committee of conference intends that, in prescribing these regulations and administering this provision, the Secretary concerned will take such steps as may be necessary to assure that the notification to passengers of the safety standards with respect to which a vessel does or does not comply will be accomplished in clear and nontechnical terms understandable to the traveling public. In other words, the Secretary should take great care to assure that the required notification is not couched in terms that would be meaningful only to persons knowledgeable with respect to vessel safety standards required by law or treaty. This provision is designed to enable members of the traveling public to formulate their own judgment as to whether a vessel is sufficiently safe for them to board.

2. The provision of the Senate amendment which makes any foreign or domestic vessel subject to inspection by the department in which the Coast Guard is operating has been modified so that the Secretary of that department may deny clearance if he finds that a vessel does not comply with the standards set forth in the International Convention for the Safety of Life at Sea, 1960, as modified by amendments proposed by the thirteenth session of the Maritime Safety Committee of the Inter-governmental Maritime Consultative Organization. The original Senate version provided that the Secretary could deny clearance if he found a vessel to be "unsafe". This modification provides the Secretary with specific standards to apply in making his determination.

3. The effective date provisions of the Senate amendment have been modified as follows:

(a) The provision relating to notification and advertising of fire safety standards will become effective 180 days after enactment of this legislation.

(b) The provision relating to denial of clearance to vessels found to be unsafe will become effective on the date when the recommended amendments to the International Convention for the Safety of Life at Sea, 1960, come into force, but in any case not later than November 2, 1968.

(c) The provision relating to the establishment of financial responsibility to meet liability for death or injury will become effective 9 months after enactment of this legislation.

(d) The provision relating to upgrading safety standards on U.S. passenger vessels

will become effective on November 2, 1968, as provided in the Senate amendment.

ALTON LENNON,
THOMAS N. DOWNING,
PAUL G. ROGERS,
W. S. MAILLIARD,
THOMAS M. PELLY,

Managers on the Part of the House.

UNFAIR OR DECEPTIVE METHODS OF PACKAGING OR LABELING OF CERTAIN CONSUMER COMMODITIES

Mr. McFALL, on behalf of the chairman on Interstate and Foreign Commerce, submitted the following conference report and statement on the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 2286)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "That this Act may be cited as the 'Fair Packaging and Labeling Act'."

"DECLARATION OF POLICY"

"SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

"PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING"

"SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

"(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

"REQUIREMENTS AND PROHIBITIONS"

"SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

"(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

"(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label;

"(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

"(A) (i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound; or in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

"(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

"(iii) if on a package labeled in terms of linear measure, shall be expressed both in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

"(iv) if on a package labeled in terms of measure of area, shall be expressed both in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

"(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

"(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

"(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed; and

"(4) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving.

"(5) For purposes of paragraph (3) (A) (ii) of this subsection the term 'random package' means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

"(b) No person subject to the prohibition contained in section 3 shall distribute or

cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in non-deceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

"ADDITIONAL REGULATIONS

"SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the 'Secretary') with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the 'Commission') with respect to any other consumer commodity.

"(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

"(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

"(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

"(2) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

"(3) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and (B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

"(4) prevent the nonfunctional-slack-fill of packages containing consumer commodities.

For purposes of paragraph (4) of this subsection, a package shall be deemed to be

nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

"(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

"(e) If (1) after one year after the date on which the Secretary of Commerce first makes the request of manufacturers, packers, and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

"PROCEDURE FOR PROMULGATION OF REGULATIONS

"SEC. 6. (a) Regulations promulgated by the Secretary under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, pursuant to the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the promulgation of any such regulations by the Secretary shall be conducted by the Secretary or by such officer or employee of the Department of Health, Education, and Welfare as he may designate for that purpose.

"(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

"(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

"(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as

of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

"ENFORCEMENT

"SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

"(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

"(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

"REPORTS TO THE CONGRESS

"SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5(d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

"COOPERATION WITH STATE AUTHORITIES

"SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

"(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

"DEFINITIONS

"SEC. 10. For the purposes of this Act—

"(a) The term 'consumer commodity', except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

"(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

"(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading 'Bureau of Animal Industry' of the Act of March 4, 1913 (37 Stat. 832-833; 21 U.S.C. 151-157), commonly known as the Virus-Serum-Toxin Act;

"(3) any drug subject to the provisions of section 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b) (1) and 356);

"(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.); or

"(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

"(b) The term 'package' means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

"(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

"(2) Shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

"(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

"(c) The term 'label' means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

"(d) The term 'person' includes any firm corporation, or association.

"(e) The term 'commerce' means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

"(f) The term 'principal display panel' means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

"SAVING PROVISION

"SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

"(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

"(b) the Federal Food, Drug, and Cosmetic Act; or

"(c) the Federal Hazardous Substances Labeling Act.

"EFFECT UPON STATE LAW

"SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements

of section 4 of this Act or regulations promulgated pursuant thereto.

"EFFECTIVE DATE

"SEC. 13. This Act shall take effect on July 1, 1967: *Provided*, That the Secretary (with respect to any consumer commodity which is a food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest."

And the House agree to the same.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
TORBERT H. MACDONALD,
JOHN JARMAN,
WILLIAM L. SPRINGER,
J. ARTHUR YOUNGER,

Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
PHILIP A. HART,
HOWARD CANNON,
NORRIS COTTON,
THRUSTON B. MORTON,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House amendment strikes out all of the Senate bill after the enacting clause and inserts a substitute. The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for both the Senate bill and the House amendment. The differences between the House amendment and the conference substitute are described below, except for clarifying, technical, and conforming changes.

"PRICE" VERSUS "VALUE" COMPARISONS

Section 2 of the Senate-passed bill states that the label on packages of consumer commodities should facilitate "price" comparisons, and section 5(c) of the Senate-passed bill provides that the discretionary regulatory requirements would be applicable where necessary to facilitate "price" comparisons. In both instances, the House amendment uses the term "value" in lieu of "price." The conference substitute adopts the House version and uses the term "value" in both instances. The conferees wish to make clear that the concept of "value comparison" is broader than the concept of "price comparison" and includes the latter within the former as a very important factor in making a value comparison.

STATEMENT OF NET QUANTITY

The Senate-passed bill provided that the statement of net quantity, if expressed in terms of weight or liquid measure, on any package of a consumer commodity containing less than 4 pounds or 1 gallon, would have to be expressed in ounces or in whole units of pounds, pints, or quarts. The House amendment, on the other hand, provided that in the case of such a package, the statement of net quantity be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in terms of

ounces or common or decimal fractions of the pound; or, in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart.

The House amendment also made special provisions for "random packages." Random packages, under the House amendment, would have the statement of net quantity set forth in pounds and decimal fractions of the pound carried out to not more than two decimal places to permit the continued use of automatic weighing machines.

The House amendment also specified the statement of net quantity which must appear on packages of consumer commodities which are labeled in terms of linear or area measure. The Senate-passed bill contained no special provisions with respect to these packages.

The conference substitute is the same in all these respects as the House amendment.

SERVINGS

Under section 5(c) (2) of the Senate-passed bill, the appropriate promulgating authority was given authority to establish and define the net quantity of any commodity which would constitute a serving, if that commodity was distributed to retail purchasers in a package with a label which bore a representation as to the number of servings provided by the net quantity of the contents contained in the package. In the same context, the House amendment provided that the promulgating authority could require that the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall also bear a statement of the net quantity of each such serving.

The conference substitute adopts the language of the House amendment but transfers it from section 5(c) (the discretionary provisions) to section 4(a) of the legislation (the mandatory provisions). Thus, under the conference substitute, the appropriate promulgating authority would be required to issue regulations providing that the label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package also bear a statement of the net quantity of each such serving.

INGREDIENTS

Section 5(c) (4) of the Senate-passed bill would have authorized each promulgating authority to require that information with respect to the ingredients and composition of any consumer commodity be placed upon the label of the package containing that commodity. The House amendment would authorize each promulgating authority to require that the label of each package containing a nonfood bear (A) the common or usual name of such commodity and (B) in case such commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance.

The conference substitute is the same in this respect as the House amendment.

SLACK-FILL

The House amendment would authorize the promulgating authority to prevent the nonfunctional slack-fill of packages containing consumer commodities. The Senate-passed bill contained no comparable provisions.

The conference substitute is the same in this respect as the House amendment.

STANDARDIZATION OF WEIGHTS AND MEASURES

Section 5(d) of the Senate-passed bill provides that the promulgating authority may determine that the weights or quantities in which any consumer commodity is being distributed for retail sale are likely to impair

the ability of consumers to make price per unit comparisons. In case of such a determination, unless the industry adopts voluntary product standards, the promulgating authority may issue regulations effective to establish reasonable weights or quantities, and fractions or multiples thereof, in which any such consumer commodity would have to be packaged in order to be distributed in commerce for retail sale.

The House amendment would authorize the Secretary of Commerce to determine that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed, and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities. In such a case, the Secretary is directed to request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such a commodity or commodities. If, after 1 year after the date of such request, the Secretary determined that such a standard will not be published or, if such a standard has been published, that it has not been observed, he would be required to promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

The conference substitute is the same in this respect as the House amendment.

FEDERAL PREEMPTION OF STATE LAWS

Section 12 of the Senate-passed bill provides that it is the intent of the Congress to supersede any and all laws of the States and political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of the contents of the package of any consumer commodity covered by the act which differs from the requirements of section 4 of the act or regulations promulgated pursuant thereto.

The House amendment would preempt the laws of the States or political subdivisions insofar as they may now or hereafter provide for the labeling of net quantity of contents of the package of any consumer commodity covered by the act which are less stringent than or require information different from the requirements of section 4 of the act or regulations promulgated pursuant thereto. Language from the House report explaining these provisions is pertinent. It provides that "State laws or State regulations with respect to the labeling of net quantity of contents of packages impose inconsistent or less stringent requirements than are imposed under section 4 of this legislation." The conference substitute is the same in this respect as the House amendment.

EFFECTIVE DATE

Section 13 of the Senate-passed bill provides that it shall take effect on the first day of the sixth month beginning after the date of its enactment.

The House amendment provides that the legislation shall take effect on July 1, 1967. Both bills provide authority for extending the effective date for a period of 1 year with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

The conference substitute is the same in this respect as the House amendment.

HARLEY O. STAGGERS,
SAMUEL N. FRIEDEL,
TORBERT H. MACDONALD,
JOHN JARMAN,
WILLIAM L. SPRINGER,
J. ARTHUR YOUNGER,

Managers on the Part of the House.

NATIONAL DAY OF MALAGASY REPUBLIC

(Mr. O'HARA of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'HARA of Illinois. Mr. Speaker, today marks the national day of the Malagasy Republic, the sixth anniversary of the proclamation of the Republic. It is my pleasure to extend the greetings of my countrymen to the people of that island republic.

Her early history is truly a fascinating story. The Malagasy Republic comprises the island of Madagascar and its island dependencies—Nosy Be, Nosy Mitsio, Ste. Marie, Iles Barren, and Nosy Faly. Situated in the Indian Ocean, 250 miles across the Mozambique Channel from the southeast coast of Africa, Madagascar is the fourth largest island in the world. It is 995 miles long and 360 miles wide and is 228,000 square miles in area, slightly smaller than Texas.

Madagascar was sighted in the 1500's by Diego Dias, a Portuguese captain whose ship had become separated from a fleet bound for India. Before then, as early as the seventh century, Arab settlements had been established on the northwest and southeast coasts of the island. In the latter part of the 17th century the French attempted to colonize the southeast coast but met with ill fortune at the hands of the neighboring tribes and were forced to settle for trading bases on the east coast during most of the next century.

United States relations with Madagascar date back at least to the early 18th century. An American trader named Marks—or Max—resided at Majunga on the west coast of the island around 1830-31, conducting a considerable trade in Malagasy skins, woods, honey, pitch, and salt fish against imports of American textiles, glass, and other manufactured articles. It was probably the same Marks who in 1874 presented Queen Ranavalona II a gift of the first pane-glass known on the island. A commercial convention was concluded between the two countries in 1867, and a treaty of peace, friendship and commerce in 1881.

The Malagasy Republic was proclaimed on October 14, 1958, as an autonomous state within the French community. A period of provisional government ended with the adoption of a constitution by the Constituent Assembly on April 28, 1959. The first President of the Republic, Philibert Tsiranana, was elected on May 1, 1959, by a congress of the National Assembly and the Senate, and on June 26, 1960, independence was proclaimed in Tananarive.

Madagascar's economy is principally agricultural. The main crops are rice, manioc, coffee, vanilla, cloves, and tobacco. Graphite, mica, and other minerals are found on the island but are difficult to exploit. Although cattle raising is extensive, the herds are not widely utilized for economic purposes. Imports consist primarily of textiles, machinery and metal manufactures, foodstuffs, and petroleum products. Over 90 percent of total exports are agricultural products.

The Malagasy Government is a strong supporter of the West and is staunchly anti-Communist. It maintains close economic and cultural ties with France, which provides important funds for development and specialists for many technical positions in the government. It is a member of the United Nations and its specialized agencies.

The United States seeks to encourage economic development and political stability in the Malagasy Republic. Modest amounts of American aid have been provided to complement the efforts made by other countries and to demonstrate American interest in Madagascar. U.S. policy is to support the Malagasy pro-Western stand in international affairs.

Under agreement with the Malagasy Government, National Aeronautic Space Agency has built a space tracking station in Madagascar which is important to the American space program. Through information and cultural programs the United States has sought to provide the Malagasy Government and people with a greater understanding of the United States.

My sincere best wishes to President Tsiranana who has served his country faithfully and well, and to my good friend, Malagasy's Ambassador to the United States, His Excellency Louis Rakotomalala.

HIGH INTEREST RATES CAUSE HIGH PRICES

(Mr. PATMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PATMAN. Mr. Speaker, in recent weeks there has been much talk about raising corporate income taxes as a means of combating inflation.

With these suggestions, we are once again reminded that taxes, like other costs of doing business, are invariably passed on to the consumer. So when we talk about raising taxes and interest rates, we are also talking about raising consumer prices.

The fact that these costs are passed on to the consumer is illustrated by a short article which appeared in the Wall Street Journal of October 12, 1966. I place this article in the RECORD:

ANTI-INFLATION TAX BOOST MIGHT PROMPT PRICE RISES

CHICAGO.—A corporate income tax increase, if Congress enacts one, will be designed to reduce inflationary pressures by draining some purchasing power out of the private economy. But a few companies, viewing taxes as a cost, say a tax increase would prompt them to try to raise prices to offset that cost.

If the corporate income tax rate goes up to 50% from the present 48%, Clark Equipment Co., Buchanan, Mich., maker of auto parts, will try to raise prices 1% to 1.5% on most of its products, says Walter E. Schirmer, president. If the tax rate goes up to 52%, he says, Clark will try to raise prices 2% to 3%. The object, he says, would be to try to keep Clark's profit margin at 5.5% to 6% of sales in 1967, despite a bigger tax bite.

"If there's no tax increase, I don't think the market will take another increase in

DIGEST of Congressional Proceedings

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POSTAGE AND FEES PAID
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OFFICE OF BUDGET AND FINANCE
(FOR INFORMATION ONLY;
TO BE QUOTED OR CITED)

Issued Oct. 18, 1966
For actions of Oct. 17, 1966
89th-2nd; No. 178

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HIGHLIGHTS: see page 5

HOUSE

1. SUMMER LUNCHES. Passed under suspension of the rules H. R. 9339, to authorize a children's summer lunch program. pp. 26032-7
2. RURAL-RENEWAL LOANS. Passed under suspension of the rules S. 688, to authorize rural-renewal loans for recreation purposes and for private non-profit organizations. pp. 26046-7

3. PACKAGING; LABELING. Agreed to the conference report on S. 985, the fair packaging and labeling bill. pp. 26062-4
4. POVERTY. Received the conference report on H. R. 15111, to continue and amend various programs under the Economic Opportunity Act (H. Rept. 2298). pp. 26050-61
5. VETERINARY EDUCATION. Concurred in a Senate amendment to H. R. 3348, to authorize construction of facilities for teaching veterinary medicine and loans for students of veterinary medicine, and disagreed to two Senate amendments. pp. 26065-6
6. APPROPRIATIONS. The Rules Committee reported a resolution to waive points of order on H. R. 18381, the supplemental appropriation bill. p. 26144
Received the conference report on H. R. 17636, the D. C. appropriation bill (H. Rept. 2292). pp. 26010-12
Conferees were appointed on H. R. 18119, the State, Justice, and Commerce appropriation bill. Senate conferees have been appointed. p. 26032
7. AIRPORTS. Passed under suspension of the rules S. 476, providing for construction of airports in or close to national parks, monuments, and recreation areas. Rep. Staggers said this bill is identical to H. R. 11089. The bill will now be sent to the President. p. 26038
8. LANDS. Passed without amendment S. 84, to provide for reimbursement of Wyo. for improvements made on certain Eden project lands in Sweetwater County if or when the lands revert to the U. S. This bill will now be sent to the President. p. 26000
9. AGRICULTURAL CONSERVATION PROGRAM. Passed as reported H. R. 17588, to authorize assignments of ACP payments. pp. 26006-7
10. CONSERVATION. After discussion, H. R. 15304, to authorize the Department to sell the Pleasanton Plant Materials Center in Alameda County, Calif., was passed over because the official objectors felt it should not be considered by unanimous-consent procedure. pp. 26007-8
11. WORLD FARM CENTER. After discussion, H. Con. Res. 313, to endorse the concept of the World Farm Center, was passed over at the request of Rep. Pelly. p. 26008
12. FISH PROTEIN. Received the conference report on S. 2720, to authorize the Interior Department to develop practicable and economic means for the production of fish protein concentrate (H. Rept. 2290). pp. 26012-3
13. DISASTER RELIEF. Passed under suspension of the rules S. 1861, to provide additional assistance for areas suffering a major disaster. pp. 26024-32
14. WATERSHEDS. Both Houses received from the Budget Bureau plans for various watershed projects. pp. 26144, 26146-7
15. TAXATION. Conferees were appointed on H. R. 17607, to suspend the investment credit and the allowance of accelerated depreciation in the case of certain real property (p. 25999). Senate conferees have already been appointed.

COORDINATION OF TRAINING PROGRAMS

Both the House and Senate bill contained provisions requiring greater coordination of government training programs.

The conference committee accepted the Senate version which requires the Director, the Secretary of Labor, the Secretary of Health, Education, and Welfare, and the heads of other agencies concerned, acting through the President's Committee on Manpower, to provide for and take such steps as may be necessary and appropriate to implement the effective coordination of all programs and activities relating to the training of individuals for the purpose of improving or restoring employability. It further provides that the Secretary of Labor, pursuant to such agreements as may be necessary or appropriate shall be responsible for assuring that the Federal-State employment service provides, and develops its capacity for providing, maximum support for Federal training programs. The Secretary of Labor is also directed to obtain from the Secretary of Commerce, the Secretary of Health, Education, and Welfare and the head of any other Federal agency administering a training program information which will facilitate the placement of individuals being trained.

Information—Catalog and dissemination

The House bill required the Director to publish and maintain a current catalog of all Federal programs relating to individual and community improvement, and to make grants to States and communities to establish information centers.

The conference substitute adopted this provision, except that the word "all" before "Federal programs" is stricken to indicate the amendment is intended to assure continued publication of OEO's present catalog and not intended to require with respect to new material duplication of information already published by other Federal agencies.

Limitation on additional supergrades

The House bill contained a provision which limited the number of positions in OEO and its field offices in the classification categories of GS-16, GS-17, and GS-18, to not exceed 1 for every 100 employees.

The conference substitute provided that no additional positions in these classification categories above those now authorized shall be created or filled in fiscal year ending June 30, 1967.

The conference committee recommended that a joint committee comprised of Members of the Senate and of the House shall be convened to investigate and study the OEO administrative operation to determine the numbers of supergrades and consultants necessary to successfully achieve the purpose of this act.

Not later than March 15, 1967, such committee should submit to the Congress a report of its findings, along with any recommendations concerning this section.

Private enterprise participation

The Senate bill provided that the Director or any other Federal department or agency head to which conduct of a program has been delegated shall act to insure that the resources of private enterprise are employed to the maximum feasible extent in Economic Opportunity Act programs. An annual report to Congress on the progress made under the section is required.

Prohibition on assistance to individuals inciting riots

The House bill contained provisions to prohibit assistance under this Act to individuals inciting riots and causing civil disturbances. The Senate amendment had a similar provision.

The conference modified and adopted the House amendment to insure that an indi-

vidual must have been convicted by a Federal, State, or local court of competent jurisdiction, of inciting, promoting or carrying on a riot, or any group activity resulting in material damage to property or injury to persons.

ADAM C. POWELL,
CARL D. PERKINS,
EDITH GREEN,
FRANK THOMPSON,
JOHN H. DENT,
SAM M. GIBBONS,

Managers on the Part of the House.

CORRECTION IN ENROLLMENT OF S. 3488—WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. CELLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 115) and ask for its immediate consideration.

Mr. Speaker, this is being done to correct an error made by the Clerk in enrolling the bill, S. 3488, which was passed by the House on October 7, 1966.

The SPEAKER. The Clerk will read the Senate concurrent resolution.

The Clerk read as follows:

S. CON. RES. 115

Resolved by the Senate (the House of Representatives concurring), That the President of the United States be, and he is hereby, requested to return to the Senate the enrolled bill (S. 3488) entitled "An Act to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region and for other purposes and to enact said amendment for the District of Columbia"; that upon its return, the action of the Speaker of the House of Representatives and the President pro tempore of the Senate in signing the said bill be deemed to be rescinded; and that in the reenrollment of said bill, the Secretary of the Senate be, and he is hereby, authorized and directed to make the following change, viz: In Section 3 of the engrossed bill, change subsection (a) to read: "To assure uninterrupted progress in the development of the facilities authorized by the National Capital Transportation Act of 1965, the transfer of the functions and duties of the National Capital Transportation Agency (herein referred to as the Agency) to the Washington Metropolitan Area Transit Authority (herein referred to as the Authority) as required by Section 301(b) of the National Capital Transportation Act of 1960 shall take place on September 30, 1967."

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. POFF. Mr. Speaker, reserving the right to object, and I shall not object, my understanding, Mr. Speaker, is that what is involved here is simply a ministerial misadventure and that the resolution is necessary simply to give effect to the original intent of the House.

Mr. CELLER. The gentleman is correct.

Mr. POFF. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. CELLER]?

There was no objection.

The Senate concurrent resolution was agreed to.

Motion to reconsider was laid on the table.

CORRECTION OF ROLL CALL

Mr. BUCHANAN. Mr. Speaker, on rollcall No. 359 of October 13, 1966, a quorum call, I am recorded as being absent. I was present and answered to my name.

Mr. Speaker, I ask unanimous consent that the permanent Record and Journal be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

AUTHORIZING THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION TO NEGOTIATE COOPERATIVE AGREEMENTS GRANTING CONCESSIONS AT THE NATIONAL ZOOLOGICAL PARK TO CERTAIN NONPROFIT ORGANIZATIONS AND TO ACCEPT VOLUNTARY SERVICES OF SUCH ORGANIZATIONS OR OF INDIVIDUALS, AND FOR OTHER PURPOSES

Mr. JONES of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3230) to authorize the Board of Regents of the Smithsonian Institution to negotiate cooperative agreements granting concessions at the National Zoological Park to certain nonprofit organizations and to accept voluntary services of such organizations or of individuals, and for other purposes.

The Clerk read as follows:

S. 3230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Board of Regents of the Smithsonian Institution, in furtherance of the mission of the National Zoological Park to provide for the advancement of science and instruction and recreation of the people, is authorized to negotiate agreements granting concessions at the National Zoological Park to nonprofit scientific, educational, or historic organizations. The net proceeds of such organizations gained from such concessions granted under this subsection shall be used exclusively for research and educational work for the benefit of the National Zoological Park.

(b) The Smithsonian Institution is authorized to accept the voluntary services of such organizations, and the voluntary services of individuals, for the benefit of the National Zoological Park.

The SPEAKER. Is a second demanded?

Mr. LIPSCOMB. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mr. JONES of Missouri. Mr. Speaker, S. 3230 authorizes the Smithsonian Institution to negotiate cooperative agreements granting concessions at the zoo.

A recent decision of the Comptroller General held that a nonprofit organization called the Friends of the National Zoological Park could not conduct a coin-operated audio lecture system concession although the proceeds of the concession

were used exclusively for educational purposes at the zoo.

The bill would grant concession privileges to nonprofit organizations at the zoo, the proceeds to be used for research and educational purposes for the benefit of the zoo. It also provides that the zoo may accept voluntary services of the group or individuals.

The concession which provides the audio lecture about zoo exhibits is a device which plays a recording relating to the subject at hand and is very popular. The proceeds would go toward publication of educational literature relating to zoo exhibits, and for zoo research activities.

No money is involved, and this bill would clear up the situation which has existed for some time, but which the Comptroller General rules should be authorized by Congress.

Mr. LIPSCOMB. Mr. Speaker, I think the gentleman from Missouri has adequately explained the bill. There is no money involved. As a result of an investigation or study by the Comptroller General the action is sought. Therefore, I ask the House to pass the bill.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Missouri that the House suspend the rules and pass the bill S. 3230.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GREEK LOAN OF 1929 SETTLEMENT ACT

Mrs. GRIFFITHS. Mr. Speaker, I move to suspend the rules and pass the bill (S. 1760) to authorize the acceptance of a settlement of certain indebtedness of Greece to the United States and to authorize the use of the payments resulting from the settlement for a cultural and educational exchange program, as amended.

The Clerk read as follows:

S. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Greek Loan of 1929 Settlement Act".

SEC. 2. The Secretary of the Treasury is hereby authorized to accept a bond from the Kingdom of Greece (hereinafter referred to as "Greece") in the principal amount of \$13,155,921 in settlement of the indebtedness of Greece to the United States under part II of the agreement of May 10, 1929, and under paragraph 1(b) of the Agreement of May 24, 1932. The terms and conditions of such bond shall be those set forth in the agreement between the United States and Greece of May 28, 1964. Upon the delivery of said bond by Greece to the United States, the Secretary of the Treasury is hereby authorized to surrender to Greece all the bonds issued pursuant to part II of the agreement of May 10, 1929, and discharge Greece of its obligations under paragraph 1(b) of the agreement of May 24, 1932.

SEC. 3. The sums paid by Greece to the United States as interest on or in retirement of the principal of the bond issued as provided in section 2 shall be deposited in the Treasury of the United States. Amounts

equivalent to the sums so deposited are hereby authorized to be appropriated for use in financing educational and cultural exchange programs authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451-2458), in relation to Greece and the people of Greece.

The SPEAKER. Is a second demanded?

Mr. BROYHILL of Virginia. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

Mrs. GRIFFITHS. Mr. Speaker, S. 1760 would give approval to an agreement signed in 1964 settling a \$12 million loan to Greece authorized by Congress in 1929. The agreement provides full principal repayment and partial payment of interest arrearages. Interest will be at 2 percent. The loan has been in default for many years. However, once Congress approves the settlement, we will begin to collect principal and interest.

The 81 annual repayments of \$329,000 are to be used in financing the United States-Greek exchange program. This program presently costs \$750,000 to operate. The Greek payments will pay for part of this present program. Thus, there will be a saving to the U.S. Government. The Greek payments will also benefit our balance of payments.

The agreement constitutes the most favorable settlement the United States could negotiate; it generally follows the lines of the private dollar bondholders settlement with Greece.

The bill has passed the Senate. It has been unanimously reported by the Ways and Means Committee with a small technical amendment. It would be desirable to take the final steps to bring the settlement agreement into force.

Mr. BROYHILL of Virginia. Mr. Speaker, I recommend favorable action on S. 1760, the Greek Loan of 1929 Settlement Act. There is no objection to this bill, and as the gentlewoman from Michigan pointed out, the Ways and Means Committee was unanimous in recommending favorable action.

This bill legislatively implements a settlement agreement for a loan made by the United States to Greece in 1929. No payments have been made on this loan since the early years of World War II.

Under the terms of the settlement, Greece will repay \$13,155,921, with interest, in 82 annual installments—a total of \$26.7 million. Under the terms of the bill now before the House, the payments by Greece will be deposited in the Treasury, and appropriations of an equivalent amount are authorized for use in financing educational and cultural exchange programs, between the people of the United States and the people of Greece, authorized by the Mutual Educational Cultural Exchange Act of 1961.

Mr. Speaker, this legislation is mutually beneficial to both Greece and the United States. The United States will receive payment on a debt that has been in arrears for a quarter of a century. The Greek Government will thereby be able to strengthen its international credit

standing. The funds made available will enable the people of Greece and the people of the United States to become better acquainted with each other through the cultural exchange programs that Congress authorized 5 years ago.

Mr. Speaker, in view of the unanimous support of the Ways and Means Committee for this legislation and the benefits that will accrue to both the United States and Greece, I urge favorable action by the House.

The SPEAKER. The question is on the motion of the gentlewoman from Michigan that the House suspend the rules and pass the bill S. 1760, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FAIR PACKAGING AND LABELING ACT—CONFERENCE REPORT

Mr. STAGGERS. Mr. Speaker, I call up the conference report on the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 14, 1966.)

Mr. STAGGERS (interrupting the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement on the part of the managers be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. STAGGERS. Mr. Speaker, as a brief explanation of what happened in conference, this is principally the same bill that passed the House a few days ago. We have not changed the context of the bill in any way.

We did make two changes. They are not substantive changes at all.

We moved one part of the bill from the permissive section over to the mandatory section, in the labeling of cups or servings. If they are going to put this on the package, it will be mandatory that they tell what is in it and what they mean by "serving."

The other part of the bill we changed made no substantive change. We added the words "shall" or "there shall be," which was implied in the bill anyway.

Those are the only changes in the bill as it passed the House.

Mr. YOUNGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from California.

Mr. YOUNGER. I want to inform the House that the committee and our chairman stood fast on the instructions we received to stand by the House bill. We did. The Senate accepted the House bill in toto as against its own bill.

I congratulate the chairman for carrying out in detail the instructions which the Members of the House passed along to us.

Mr. STAGGERS. I thank the gentleman from California.

I wish to say, in behalf of the gentleman from California, he was one of the Members who did insist that not even a word be changed or an "i" be dotted in a different way. I should like to congratulate him for being one of the very punctual members of our committee, who has always been at committee meetings on time—contributed helpfully to our deliberations, and has always looked out for the interests of his constituents and the general public.

Mr. SPRINGER. Mr. Speaker, will the gentleman yield?

Mr. STAGGERS. I yield to the gentleman from Illinois.

Mr. SPRINGER. There has been a lot written about the so-called fair labeling and packaging bill. I wish to say to my colleagues that this was indeed a difficult bill in the committee. No one got everything he wanted.

I believe that the first day the bill came before the committee it probably would not have had 5 or 6 votes against it, but after 8 weeks of hearings I doubt if there would have been 6 or 8 votes out of the 33 for the bill, unless the bill had been substantially changed.

I believe sincerely that the House committee did the very best job it could in getting a bill which could come from the committee with more than half of the Members for it, so that we could get a bill to the floor.

Finally, may I say that we were able to get a bill which came from our committee unanimously. Insofar as I know, at the time the bill came out there was not a single Member on either side of the aisle opposed to the bill.

It was an extremely difficult bill, but I believe the committee for 8 weeks faithfully heard all the evidence it could get about what ought to be in the bill. There was a feeling in the committee, which was expressed very forcefully by a large majority—I believe with the exception of only two or three Members—that the bill would not have come out of the committee unless the chairman himself and the conferees were willing to stand for the House version.

If the chairman himself or I had indicated we were going to surrender on the House version in the conference, there would have been no bill to come from the committee.

Mr. Chairman, I believe I am stating this exactly as it happened in the committee. Is that correct?

Mr. STAGGERS. I might say to my colleague from Illinois that that is correct. At this point I certainly want to

thank him for all of his help on this bill as well as thank all of the other members of the committee. I say that because without working together on both sides, we could not have reported this bill or any of the many others which came from our committee unanimously.

Mr. SPRINGER. Mr. Speaker, I thank the chairman of the committee for his kind words. I did want to get before the House the extreme difficulty that the chairman and I had in getting any bill out of the committee dealing with this matter this year.

I felt this explanation was due my colleagues before we voted on the conference report. I believe in the conference we did as our colleagues on our committee instructed us to do before the bill was released and allowed to come to the floor.

Mr. STAGGERS. Mr. Speaker, I thank the gentleman for his statement. I think it is a very correct explanation of this situation.

While I am thanking the gentleman and the other members of the committee for their cooperation and readiness in working out a good bill, I do wish to take the opportunity here to mention the continuing helpfulness which Senator HART has shown in working out legislation in this important field. Indeed, I think it fair to say that it was PHIL HART who early stimulated and kept alive an interest in seeing that something was done in the packaging area to provide greater protection and information to the public.

For the edification of the Congress, I would like to say that we got an extremely good bill here and one which is in the interests of America. It is a strong bill, I think. In many ways we have strengthened the Senate bill with things that they could not get into their version.

I think this bill will work out better than any of us on the committee dreamed that it would for the housewives of America. I still call this the housewives' bill, and I think it is a good bill and urge its passage.

Mr. Speaker, I yield to the gentleman from West Virginia [Mr. KEE].

(Mr. KEE asked and was given permission to revise and extend his remarks.)

Mr. KEE. Mr. Speaker, I rise to commend the distinguished gentleman from West Virginia, [Mr. STAGGERS], chairman of the Committee on Interstate and Foreign Commerce of the House of Representatives, and the members of his committee, for bringing before the House today the conference report on S. 985, the Fair Packaging and Labeling Act.

In my judgment, Mr. Speaker, this legislative proposal should properly be known as "The Housewives' Bill."

The proper administration of this legislation will serve as a real aid to the housewives of America in particular. This legislation will help in accurately determining the quantity of the contents of the merchandise, as well as identifying the value received for the dollar spent.

It is primarily the housewife of America who is responsible for the family budget. It is the housewife of America

who has the responsibility for purchasing the groceries for her family. Therefore, under this legislation, the housewife will be able to more accurately determine the actual value received for each dollar she spends.

It is a privilege to support this conference report.

Mrs. MAY. Mr. Speaker, I am glad that the packaging bill conferees from the other body wisely agreed to accept the House version of the packaging bill. This is a good bill for America's consumers and housewives, because it clarifies the laws and regulations protecting food and grocery shoppers from deceptive practices in the marketplace. It would have been extremely unfortunate had the two branches been unable to reach agreement on this matter of safeguarding the interests of the consuming public.

Once again, I want to commend the House Interstate and Foreign Commerce Committee and its distinguished chairman, for their conscientious efforts leading to formulation of this packaging legislation.

I realize that there are those critics of the bill who would have preferred legislation containing mandatory packaging standardization provisions. However, these critics apparently overlook considerable expert testimony to the effect that such mandatory standardization would lead to increased manufacturing costs and subsequent higher retail food and grocery prices.

Considering that inflation is today the consumer's No. 1 enemy, I cannot say how inclusion of standardization provisions in a packaging bill could be in the best interests of the country's consumers. The House committee, having heard the testimony on this subject, arrived at the same conclusion. Therefore, I can only believe that the critics are perhaps more interested in testing a theory than dealing with the realities of today's food and grocery economy. The country's consumers can be thankful that in the last analysis the realists outnumbered the theorists in both Houses. As a result, this Congress will enact packaging legislation which advances and serves consumer interests within the framework of the country's free market economy.

Mr. STAGGERS. I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SPRINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 242, nays 6, not voting 184, as follows:

[Roll No. 369]

YEAS—242

Adams	Fraser	Multer
Addabbo	Frelinghuysen	Murphy, Ill.
Andrews,	Friedel	Natcher
George W.	Fulton, Pa.	Nedzi
Andrews,	Garmatz	O'Hara, Ill.
Glenn	Gathings	O'Hara, Mich.
Andrews,	Gettys	O'Neal, Ga.
N. Dak.	Gibbons	O'Neill, Mass.
Ashbrook	Gilbert	Passman
Ashley	Gonzalez	Patman
Ashmore	Goodell	Patten
Ayres	Gray	Pelly
Bandstra	Green, Oreg.	Perkins
Barrett	Green, Pa.	Philbin
Bates	Griffiths	Pickle
Battin	Grover	Pike
Beckworth	Gubser	Poage
Bell	Hagen, Calif.	Poff
Bennett	Haley	Powell
Bingham	Hall	Price
Blatnik	Hamilton	Quile
Boggs	Hanley	Quillen
Boland	Hanna	Randall
Bolton	Hardy	Redlin
Bow	Harsha	Reld, Ill.
Brademas	Hathaway	Reld, N.Y.
Bray	Hechler	Resnick
Broyhill, N.C.	Henderson	Reuss
Broyhill, Va.	Heron	Rhodes, Pa.
Burke	Holifield	Rivers, S.C.
Burton, Utah	Holland	Robison
Byrne, Pa.	Horton	Rodino
Byrnes, Wis.	Hosmer	Rogers, Colo.
Cabell	Hull	Rogers, Fla.
Cahill	Hutchinson	Rooney, N.Y.
Callan	Ichord	Rosenthal
Cameron	Irwin	Rostenkowski
Carey	Jarman	Roush
Casey	Joelson	Roybal
Cederberg	Johnson, Calif.	Rumsfeld
Chamberlain	Johnson, Okla.	Ryan
Chelf	Johnson, Pa.	Satterfield
Clancy	Jones, Ala.	St Germain
Clark	Karsten	Saylor
Clausen,	Karth	Scheuer
Don H.	Kee	Schneebeli
Cleveland	Keith	Schweiker
Cohelan	Keogh	Scott
Collier	King, Calif.	Secrest
Colmer	Kirwan	Selden
Conte	Krebs	Shriver
Conyers	Kunkel	Sickles
Corbett	Landrum	Sikes
Cramer	Langen	Slack
Culver	Latta	Smith, Va.
Cunningham	Leggett	Springer
Curtin	Lennon	Staggers
Dague	Lipscomb	Talcott
Daniels	Long, La.	Teague, Calif.
Davis, Wis.	Long, Md.	Teague, Tex.
Dawson	McClary	Tenzer
Derwinski	McDade	Tuck
Dole	McEwen	Tutcn
Donohue	McFall	Utt
Dowdy	McGrath	Van Deerin
Downing	Machen	Vanik
Dulski	Mahon	Vivian
Duncan, Tenn.	Maillard	Waldie
Dwyer	Marsh	Walker, N. Mex.
Edmondson	Mathias	Watson
Edwards, Calif.	Matthews	Watts
Edwards, La.	May	Whalley
Everett	Miller	White, Tex.
Fallon	Mills	Whitten
Farnsley	Mlinish	Williams
Feighan	Mink	Wright
Findley	Minshall	Wyatt
Flood	Monagan	Wyder
Fogarty	Moore	Young
Ford, Gerald R.	Moorhead	Younger
Ford,	Morgan	Zablocki
William D.	Morris	
Fountain	Morrison	

NAYS—6

Buchanan	de la Garza	Morton
Burleson	Jones, Mo.	Waggonner

NOT VOTING—184

Abbitt	Betts	Clevenger
Abernethy	Bolling	Conable
Adair	Brock	Cooley
Albert	Brooks	Corman
Anderson, Ill.	Broomfield	Craley
Anderson,	Brown, Calif.	Curtis
Tenn.	Brown, Clar-	Daddario
Annunzio	ence J., Jr.	Davis, Ga.
Arends	Burton, Calif.	Delaney
Aspinall	Callaway	Dent
Baring	Carter	Denton
Belcher	Celler	Devine
Berry	Clawson, Del	Dickinson

Diggs	King, N.Y.	Ronan
Dingell	Kling, Utah	Roncalio
Dorn	Kluczynski	Rooney, Pa.
Dow	Kornegay	Roudebush
Duncan, Oreg.	Kupferman	St. Onge
Dyal	Laird	Schisler
Edwards, Ala.	Love	Schmidhauser
Ellsworth	McCarthy	Senner
Erlenborn	McCulloch	Shipley
Evans, Colo.	McDowell	Sisk
Evins, Tenn.	McMillan	Skubitz
Farbstein	McVicker	Smith, Calif.
Farnum	Macdonald	Smith, Iowa
Fascell	MacGregor	Smith, N.Y.
Fino	Mackay	Stafford
Fisher	Mackle	Stalbaum
Flynt	Madden	Stanton
Foley	Martin, Ala.	Steed
Fulton, Tenn.	Martin, Mass.	Stephens
Fuqua	Martin, Nebr.	Stratton
Gallagher	Matsunaga	Stubblefield
Giaimo	Meeds	Sullivan
Gilligan	Michel	Sweeney
Grabowski	Moeller	Taylor
Greigg	Morse	Thomas
Grider	Mosher	Thompson, N.J.
Gross	Moss	Thompson, Tex.
Gurney	Murphy, N.Y.	Thomson, Wis.
Hagan, Ga.	Murray	Todd
Halleck	Nelsen	Toll
Halpern	Nix	Trimble
Hansen, Idaho	O'Brien	Tunney
Hansen, Iowa	O'Konski	Tupper
Hansen, Wash.	Olsen, Mont.	Udall
Harvey, Ind.	Olson, Minn.	Ullman
Harvey, Mich.	Ottinger	Vigorito
Hawkins	Pepper	Walker, Miss.
Hays	Pirnic	Watkins
Hébert	Pool	Weltner
Hclstoski	Pucinski	White, Idaho
Hicks	Purcell	Whitener
Howard	Race	Widnall
Hungate	Rees	Willis
Huot	Reifel	Wilson, Bob
Jacobs	Reinecke	Wilson,
Jennings	Rhodes, Ariz.	Charles H.
Jonas	Rivers, Alaska	Wolf
Jones, N.C.	Roberts	Yates
Kastenmeier	Rogers, Tex.	
Kelly		

So the conference report was agreed to.

The Clerk announced the following pairs:

Mr. Hébert with Mr. Adair.	Mr. Albert with Mr. Arends.
Mr. Jennings with Mr. Berry.	Mr. Annunzio with Mr. Carter.
Mr. Celler with Mr. Del Clawson.	Mrs. Kelly with Mr. Bob Wilson.
Mr. Howard with Mr. Watkins.	Mr. Evins of Tennessee with Mr. Stafford.
Mr. Aspinall with Mr. Reinecke.	Mr. Giaimo with Mr. O'Konski.
Mr. Daddario with Mr. Nelsen.	Mr. Kluczynski with Mr. Michel.
Mr. Matsunaga with Mr. Kupferman.	Mr. Abernethy with Mr. Jonas.
Mr. Fuqua with Mr. Hansen of Idaho.	Mr. Gilligan with Mr. Gurney.
Mr. Farbstein with Mr. Fino.	Mr. Dyal with Mr. Erlenborn.
Mr. Mackay with Mr. Edwards of Alabama.	Mr. Thompson of New Jersey with Mr. Conable.
Mr. Sweeney with Mr. Devine.	Mr. St. Onge with Mr. Dickinson.
Mr. Brown of California with Mr. Anderson of Illinois.	Mr. Foley with Mr. Clarence J. Brown, Jr.
Mr. Hagan of Georgia with Mr. Callaway.	Mr. Abbitt with Mr. Walker of Mississippi.
Mr. White of Idaho with Mr. Smith of California.	Mr. Schmidhauser with Mr. Morse.
Mr. Schisler with Mr. Martin of Nebraska.	Mr. Rivers of Alaska with Mr. Martin of Massachusetts.
Mr. Jacobs with Mr. King of New York.	Mr. Craley with Mr. Harvey of Michigan.
Mr. Burton of California with Mr. Harvey of Indiana.	Mr. Ronan with Mr. Halpern.
Mr. Helstoski with Mr. Thomson of Wisconsin.	Mr. Rooney of Pennsylvania with Mr. Roudebush.

Mr. Cooley with Mr. Belcher.	Mr. Senner with Mr. Betts.
Mr. Shipley with Mr. Brock.	Mr. Trimble with Mr. Broomfield.
Mr. McVicker with Mr. Widnall.	Mr. Olsen of Montana with Mr. Stanton.
Mr. Ottinger with Mr. Smith of New York.	Mr. Whitener with Mr. Skubitz.
Mr. Yates with Mr. Roudebush.	Mr. Wolf with Mr. Rhodes of Arizona.
Mr. Moss with Mr. Reifel.	Mr. Fisher with Mr. Pirnie.
Mr. Gallagher with Mr. Martin of Alabama.	Mr. Grabowski with Mr. Mize.
Mr. Dent with Mr. MacGregor.	Mr. Dingell with Mr. McCulloch.
Mr. Corman with Mr. Halleck.	Mr. Hicks with Mr. Curtis.
Mr. Roncalio with Mr. Mosher.	Mr. Clevenger with Mr. Tupper.
Mr. Davis of Georgia with Mr. Ellsworth.	Mr. Pucinski with Mr. Hansen of Iowa.
Mr. Charles H. Wilson with Mr. Todd.	Mrs. Thomas with Mr. Tunney.
Mr. McCarthy with Mr. McDowell.	Mr. Sisk with Mr. Rogers of Texas.
Mr. Roberts with Mr. Anderson of Tennessee.	

see.

Mr. Brooks with Mr. Dorn.	Mr. Dow with Mr. Duncan of Oregon.
Mr. Evans of Colorado with Mr. Flynt.	Mr. Pool with Mr. Pepper.
Mr. Grider with Mr. Purcell.	Mr. Moeller with Mr. Mackle.
Mr. Udall with Mr. Vigorito.	Mr. Ullman with Mr. Weltner.
Mr. Kornegay with Mr. Kastenmeier.	Mr. Steed with Mr. Taylor.
Mr. Stephens with Mr. Stanton.	Mr. Hays with Mr. Delaney.
Mr. Denton with Mr. Diggs.	Mr. Fascell with Mr. Fulton of Tennessee.
Mr. Olson of Minnesota with Mr. O'Brien.	Mr. Murphy of New York with Mr. Willis.
Mrs. Sullivan with Mr. Thompson of Texas.	Mr. Stalbaum with Mr. Huot.
Mr. Hungate with Mr. Baring.	Mr. Greigg with Mr. Meeds.
Mr. Love with Mr. Macdonald.	Mr. Stubblefield with Mr. Toll.
Mr. Hawkins with Mr. Farnum.	Mrs. Hansen of Washington with Mr. Rees.
Mr. Edwards of Louisiana with Mr. Race.	Mr. Madden with Mr. McMillan.
Mr. King of Utah with Mr. Jones of North Carolina.	Mr. Smith of Iowa with Mr. Murray.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

MOTOR CARRIER INCIDENTAL CHARTER RIGHTS

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee of the Whole House on the State of the Union be discharged from further consideration of the bill (S. 2893) to amend section 208(c) of the Interstate Commerce Act to provide that certificates issued in the future to motor common carriers of passengers shall not confer, as an incident to the grant of regular route authority, the right to engage in special or charter operations, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the bill, as follows:

DIGEST of Congressional Proceedings

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C. 20250
OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U. S. DEPARTMENT OF AGRICULTURE

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(FOR INFORMATION ONLY;
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Issued Oct. 20, 1966
For actions of Oct. 19, 1966
89th-2nd; No. 180

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HIGHLIGHTS: Senate committee reported supplemental appropriation bill. Senate passed bill to permit sale of grain storage facilities. Senate agreed to conference report on packaging-labeling bill.

SENATE

1. APPROPRIATIONS. The Appropriations Committee reported with amendments H. R. 18381, the supplemental appropriation bill (S. Rept. 1841)(p. 26481). This bill was made the unfinished business (p. 26598). A table reflecting committee actions is attached to this digest.

Both Houses agreed to the conference report on H. R. 17636, the D. C. appropriation bill. This bill will now be sent to the President. pp. 26580-3, 26621-4

2. GRAIN STORAGE. Passed without amendment H. R. 12360, to permit the sale of grain storage facilities to public and private nonprofit agencies and organizations. This bill will now be sent to the President. p. 26587
3. PACKAGING; LABELING. Agreed to the conference report on S. 985, the fair packaging and labeling bill. This bill will now be sent to the President. pp. 26562-5
4. TOBACCO. Sens. Tydings and Brewster criticized this Department for discontinuing the export subsidy on Maryland tobacco. pp. 26514, 26537-8
5. TARIFF. Agreed to the conference report on H. R. 11216, to provide tariff exemption for U. S. products which are shipped abroad, incorporated in an article assembled abroad, and reimported into this country. pp. 26498-9
6. FORESTRY. Sen. Morse commended the Forest Service for progress in security access to national forest timber resources. pp. 26508-9
7. WATER; ELECTRIFICATION. Sen. Morse said the West needs more water and electricity and inserted a speech by Alex Radin. pp. 26510-11
Sen. Moss inserted a speech by Sen. Edward Kennedy before the Western States Water and Power Consumer Conference. pp. 26521-3
8. PLYWOOD STANDARDS. Sen. Magnuson described the Bureau of Standards procedure in connection with standards for plywood and other products. pp. 26516-7
9. INTERGOVERNMENTAL RELATIONS. Sen. Muskie inserted a speech by David Walker, "Cooperative Federalism: Intergovernmental Fiscal Aspects." pp. 26517-20
Passed without amendment H. R. 15335, to amend the act which established the Advisory Commission on Intergovernmental Relations so as to recognize changes in the names of two mentioned organizations, allow members to serve until reappointment or until appointment of successors becomes effective, change the name of staff director to executive director, set his salary at level V, permit State legislators to be members, and permit State and local governments to contribute funds to the Commission. This bill will now be sent to the President. pp. 26589-90
10. SOIL CONSERVATION. Sen. Tydings commended the Montgomery County sediment control program in cooperation with SCS. p. 26526
11. EDUCATION. Agreed to the conference report on H. R. 13161, to provide additional aid for elementary and secondary schools. pp. 26538-56
12. PERSONNEL. Concurred in the House amendments to S. 1496, to repeal a law prohibiting detail of employees from field positions into D. C. This bill will now be sent to the President. p. 26566

individual whose death occurred prior to the enactment of this Act, before the expiration of the two-year period which begins on the date of enactment of this Act, or, in any case involving the correction of a discharge after the date of enactment of this Act, before the expiration of two years from the date of such correction.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments are considered and agreed to en bloc.

Mr. MANSFIELD. Mr. President, I wish to commend the distinguished Senator from New Mexico [Mr. MONTROYA], who was the chief author of this proposal, in which he was joined by 58 other Senators.

This bill would provide readjustment assistance to veterans who served in the Armed Forces during the Vietnam era and other purposes. This is a good bill—a much needed bill, and the chief credit for its overwhelming support in this body goes to the Senator from New Mexico [Mr. MONTROYA].

Mr. MONTROYA. Mr. President, I thank the distinguished majority leader for his kind words. I want to begin my statement in support of the Vietnam Era Veterans Readjustment Act with a word of thanks to the distinguished Senator from Louisiana [Mr. LONG] for the expeditious consideration which was accorded this bill by the committee on Finance.

I did not introduce the bill until June of this year, and without the wholehearted cooperation of the Senator and his committee, it would not have been possible to schedule hearings and obtain the approval of the committee during this session.

The purpose of this bill, S. 3580, is to remove inequities in this Nation's treatment of the veterans of the present armed conflict in Vietnam.

The Senate's first action this year provided educational and housing benefits to this class of veterans, in conformance with treatment accorded the men who fought in World War II and in Korea.

My bill, S. 3580, will close the last remaining gap of any consequence which exists between the benefits provided veterans of previous conflicts, and veterans of the present fighting. What we are talking about is a simple matter of fairness, Mr. President. It is only right and proper that we treat all the men and women who fight in defense of their country, regardless of the era in which they fight, equally and fairly.

A majority of my colleagues have joined me as cosponsors of this legislation, so that this bill carries a total of 57 sponsors.

Mr. President, I should like to briefly summarize the provisions of S. 3580.

First of all, it would add the words, "Vietnam era," to the list of conflicts for which wartime veterans' benefits will be paid. The others on this list are World War I, World War II and the Korean conflict.

Veterans of Vietnam, their widows and their children will thus receive the same benefits which are now granted to vet-

erans of World War I, World War II and the Korean conflict.

Strange though it may seem, under present law, a marine wounded while facing hostile fire near the demilitarized zone in Vietnam would, when he becomes a civilian, receive substantially less in benefits than men who fought in earlier wars because he is legally a peacetime veteran.

S. 3580 will amend various sections of title 38 of the United States Code to extend wartime benefits to Vietnam era veterans in the following classifications:

First. A \$250 funeral expense allowance.

Second. Higher rates of disability and pension payments.

Third. A presumption of service connection in cases of severe mental illness—psychosis—which appear within 2

years after discharge for purposes of Veterans' Administration hospitalization.

Fourth. Payment of medicines and drugs to Vietnamese veterans who are on the pension rolls and in need of regular aid and attendance.

Fifth. An auto purchase allowance of up to \$1,600 for veterans who are amputees or blinded.

The Veterans' Administration has given this bill its unqualified endorsement, Mr. President. Mr. William J. Driver, Administrator of the Veterans' Administration, has supplied me with some estimates of the cost of the various benefit changes, and I ask unanimous consent to insert this information at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Estimated costs of S. 3580

[In thousands]

	Funeral expense	Disability compensation	Pensions		Autos	Total
			Disability	Death		
1st year.....	\$657	\$7,365	\$924	\$47	\$720	\$9,713
2d year.....	868	10,065	1,188	94	360	12,575
3d year.....	1,078	12,765	1,452	187	360	15,842
4th year.....	1,315	15,465	1,716	374	360	19,230
5th year.....	1,525	18,165	1,980	562	360	22,592

Source: Veterans' Administration, report to Senator Montoya, Aug. 8, 1966.

Mr. MONTROYA. Mr. President, these data are based on Armed Forces strength estimates received from the VA Controller which also indicate estimated annual separations to civil life of 500,000 to 600,000 each year. The estimates are not precise, but are believed to be in the proper magnitude.

Mr. President, I ask also unanimous consent to have printed in the RECORD a statement prepared by the Senator from Tennessee [Mr. GORE] on S. 3580, and an amendment which he had intended to propose, but which he has now decided to withhold.

There being no objection, the statement and amendment were ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GORE

S. 3580 which is now before the Senate would, among other things, make eligible for payment of the special automobile allowance, those veterans who meet the statutory definition of being severely disabled and who have served during the "Vietnam era" which is defined in the bill as meaning service since August 4, 1964. Under the bill such veterans would be entitled to the same allowance as are those who served during World War II and the Korean war.

The amendment which I have prepared is designed to correct what I regard as an inequity. There is a limited number of veterans who have injuries incurred during service which meet the statutory definition; whose injuries were incurred as a result of armed conflict, or during performance of extra-hazardous duty, or under simulated war conditions; but who would not be eligible for the allowance under the pending bill because their service was between February 1, 1955, and August 4, 1964. Under existing law these veterans are eligible for compensation at wartime rates because their injuries were sustained under conditions similar to those faced during wartime. Under my

amendment they would also be eligible for the special automobile allowance.

I point out to the Senate that under the pending bill, veterans who incur severe disability during service after August 4, 1964 would be entitled to the special allowance even though their injury may have been incurred in a purely civilian-type accident such as an automobile wreck. It seems to me that those who incur severe disability during service in the 1955-64 period because of an accident in a parachute jump, or during the course of a war game exercise, for example, should be entitled to similar treatment.

It has been my intention, when S. 3580 came before the Senate to offer this amendment to Section 5 of the bill. In view of the lateness of the session, I am advised that consideration of amendments might imperil passage of the bill. Therefore I shall withhold the amendment. I hope there will be an opportunity for the Senate to consider the substance of the amendment soon after the Congress reconvenes in January.

S. 3580

Section 5 of the bill is amended by redesignating subsection (b) as subsection (c) and inserting a new subsection (b) as follows:

(b) Section 1901(b) of such title is amended to read as follows:

"(b) For the purposes of this section, the term (1) 'World War II' includes, in the case of any veteran, any period of continuous service performed by him after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947; and (2) the term 'Vietnam era' includes the period beginning on February 1, 1955, and ending on August 4, 1964, in the case of any veteran who is entitled to compensation under chapter 11 of this title at wartime rates on account of an injury or disease, described in paragraph (1), (2), or (3) of subsection (a), incurred in or aggravated by active military, naval, or air service performed by him at any time during such period."

NO HIGHER OBLIGATION OF HONOR

Mr. KUCHEL. Mr. President, as a cosponsor of this bill to provide benefits to those who served their country in the Vietnam era, I rise to commend this measure as a timely piece of legislation which will put on a par the veterans of Chu Lai and Pleiku, with those of Heartbreak Ridge, Iwo Jima, and the Argonne Forest. In August 1964, the conflict in Vietnam threatened to shatter the peace of the entire world. You will look in vain in the history of mankind for a struggle within a single country that has so touched the fortunes of every person on this globe. The Congress, acting on behalf of the people of the United States, would, by this bill, attempt to pay a small portion of the ineluctable obligation of honor, which this Nation must attempt, but with all its resources will never be fully able, to repay to those who have fought, and will continue to fight, in defense of freedom.

Mr. President, this is the second occasion in this session of the 89th Congress that the Senate has considered a major piece of legislation in recognition of the services of American veterans of our times. I wish to commend my colleagues on the Committee on Finance, together with those on the Committee on Labor and Public Welfare, for the noble work which they have done on behalf of all of us in accepting an obligation of honor which the American people owe to the veterans of Vietnam.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

FAIR PACKAGING AND LABELING ACT—CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 985) to regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of Friday, Oct. 14, 1966, pp. 25937-25939, CONGRESSIONAL RECORD, pt. 2.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MAGNUSON. Mr. President, the Senate conferees have accepted the House version of the Fair Packaging and Labeling Act. We did so with great reluctance. After meeting with the House conferees, it became readily apparent

that the House was adamant in its position. It would not compromise even on minor issues. The choice confronting us was to accept its version or to have no bill at all.

The major difference between the House and Senate bill concerned package standards. Both bills contained provisions for the voluntary adoption of package standards. The Senate bill, however, would have made this section meaningful by permitting the Secretary to impose standards in the absence of voluntary agreement.

We need a strong packaging provision. Testimony before the Senate Commerce Committee amply demonstrated the confusion which has been caused by proliferation of package sizes and by the use of awkward and fractionalized sizes. It is regrettable that the House failed to recognize the need for and the importance of the Senate provision on package standards.

The final bill, however, is a significant victory for the American consumer. The labeling features of the bill will provide useful information to consumers; it will give them added protection. By requiring uniformity and simplification in labeling, value comparisons between competing commodities are greatly facilitated.

Mr. President, I ask unanimous consent that a summary of this act be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE FAIR PACKAGING AND LABELING ACT

I. Mandatory labeling provisions: A primary objective of the Act is to promote uniformity and simplification of labeling. The bill provides that:

(a) the identity of the commodity shall be specified on the label;

(b) the net quantity of contents shall be stated in a uniform and prominent location on the package;

(c) the net quantity of contents shall be clearly expressed in ounces and, if applicable, pounds or in the case of liquid measures in the largest whole unit of quarts or pints; and

(d) the net quantity of a serving must be stated if the package bears a representation concerning servings.

II. Discretionary labeling provisions: The Act authorizes the administering agencies to promulgate regulations when necessary to prevent consumer deception or to facilitate value comparisons:

(a) to determine what size packages may be represented by such descriptions as small, medium, and large;

(b) to regulate the use of such promotions as "cents off" or "economy size" on any package;

(c) to require the listing of ingredients in the order of decreasing predominance; and

(d) to prevent non-functional slack fill.

III. Packaging provisions: The Act provides for the voluntary adoption of packaging standards. The Act authorizes the Secretary of Commerce to call upon manufacturers, packers, and distributors to develop voluntary standards whenever he finds that undue proliferation of weights, measures, or quantities impairs the ability of consumers to make value comparisons. If voluntary standards are not adopted, the Secretary of Commerce shall report this fact to Congress together with his legislative recommendations.

Mr. MAGNUSON. Mr. President, the labeling features of the House and Senate versions were similar. The most significant difference concerned the listing of ingredients. The Senate version was broader in scope; it gave the administering authority discretion in determining what information regarding ingredients and composition must be placed on packages. For example, he could have required the listing of percentages and proportions in those instances where such information would have been useful to consumers. Under the House version, the administering authority may only require the listing, in the order of decreasing predominance, of ingredients contained in any consumer commodity.

In other words, the largest ingredient that composed the greater part of the product would be listed first, and the listing would go down to the one with the least percentage.

The Senate most reluctantly agreed to the House position when it became apparent that the House would not compromise to the slightest degree.

In summary, Mr. President, the final bill achieves the purposes and objectives of the Senate version with one major exception—a comprehensive and strong packaging provision. It is an important exception, and it is regrettable that the Senate version was not adopted. But, in view of the House position, we obtained the strongest bill possible.

However, I wish to assure the American consumer that Congress will not rest here. The need for package standards is evident; that need will be met. The Commerce Committee will vigorously pursue legislation in the next session of Congress to enact a comprehensive and meaningful packaging bill, or an amendment to the bill concerning packaging.

Mr. HART. Mr. President, I wish to thank the Senator from Washington [Mr. MAGNUSON] for bringing us to this day in the Senate. Five years ago I introduced the original truth-in-packaging bill and at that time I must confess that I thought we would have arrived at this day a little earlier than we have.

The confession I want to make now is that if it were not for the Senator from Washington, this great day would never have arrived. It is, indeed, a happy one for the American consumer, who should be first to thank the Senator from Washington.

I insist that the Senator from Washington has "fathered" a much stronger "child" than he modestly admits having fathered.

This conference report in many respects is much stronger than the bill the Senate passed and, certainly, on balance, I think will prove effective. I am heartened to hear him say that the Commerce Committee will be watchful to note the developments under the bill and the responses to it.

I do not wish further to delay the Senator from Washington. I have some remarks which I shall make a little later on, but I rise at this time to thank the Senator from Washington for his great efforts in behalf of this legislation.

Mr. COTTON. Mr. President, representing the minority on the committee and the members of the committee that

were at times not in entire agreement with the chairman, the distinguished Senator from Washington, as well as the Senator from Michigan, I want to say that the Senate can be assured that the chairman of the committee left no stone unturned and did everything in his power to secure an agreement to the principles of the Senate bill and to effect a reasonable compromise with the House. It could not possibly be through any fault of the Senator from Washington, who worked long hours manfully, and I thought skillfully, to secure consideration of the Senate viewpoint that these views did not prevail.

I concur with the Senator from Michigan that the bill is fully as strong and may prove to be fully as effective as the Senator from Washington appeared to indicate in his remarks, because I think it has served to put the industry on notice and will have an extremely beneficial effect.

For myself, let me say that while I was not in accord in the committee and in the Senate with the stringent positions of the packaging items in the bill, the minority certainly did not express its viewpoint when the Senate was represented in the conference.

I was a little bit disappointed in the House version, in that I thought it somewhat blurred the labeling provisions which the Senate bill carried, which was one that I felt was of absolute, paramount importance; but I will say that, on the whole, the bill may prove to be effective and I am sure that the committee will follow it carefully.

I commend both Senators from Washington and Michigan, and their colleagues, on fully and thoroughly representing the Senate viewpoint in the conference.

Mr. HRUSKA. Mr. President. It is with some gratification that this Senator views the final product of the conference on the packaging and labeling bill.

The bill is intended to help prevent the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in interstate and foreign commerce. In delegating authority to certain enforcement agencies under its carefully worded provisions, this bill is for the most part a sensible and reasoned amplification of existing law which prohibits deception and other objectionable practices in packaging and labeling.

With this law, Congress has given regulatory agencies some additional tools they claim they need to get the job done. With this law, Congress has issued a call for vigorous enforcement by these agencies which has heretofore been lacking.

The conference action is in substance consistent with the position of those Senators who voted in favor of certain amendments to the bill as originally presented to the Senate. Principally, I refer to the amendment introduced by the distinguished Senator from New Hampshire which 32 of this body supported. Senator COTTON's amendment was directed to a part of section 5 of the original bill which allowed the Federal Trade Commission or the Secretary of Health, Education, and Welfare, as was applicable, to

promulgate mandatory package-content standards.

These provisions in section 5 were, to say the least, controversial.

There were reasons for this controversy and for the ultimate rejection of these provisions by the House of Representatives and the conferees. They substituted bureaucratic authority for the forces of a free market of which the consumer is one force. The testimony of expert witnesses documenting the likelihood of a tremendous increase in manufacturing costs resulting from mandatory standardization was both considerable and convincing. Innovation would be blighted. In short, these odious provisions would not protect the interests of the consumer; on the contrary, they would eliminate those interests.

Serving on the Judiciary Committee and on the National Commission on Food Marketing, this Senator has been deeply involved in the subject matter of this bill for about 3 years. After participating in the building of a sizable and extensive legislative record on this matter, I concluded that the primary thrust of the legislative proposals were not directed against fraud and deceit but toward the subjection of packaging to objectionable and unnecessary Federal administrative control.

Adoption of the bill in its present form is in vindication of our position that it is simply not good policy to place such power in the hands of a central bureaucracy. We rejoice in the vindication by an overwhelming number of House Members who approved the conference report by a vote of 242 in favor, 6 against. We will rejoice last, but not least, at the vindication furnished and implicit in the President's signature, which will follow in due course, it is presumed.

It is a rewarding experience when the powerful majority adopts a position for which a few have fought for, long and hard. Sadly, it does not occur with sufficient regularity to create boredom in the minority ranks. It has happened with the packaging and labeling bill. I express my gratification for this progress.

Mr. MAGNUSON. Mr. President, I thank the Senator from Michigan, the Senator from New Hampshire and the Senator from Nebraska for their kind remarks.

Of course, we all worked hard on the bill. It was a complex bill, cutting across many lines of the economy of the United States. Without their help and the help of other members of the committee, I do not think we would have been able to bring in a bill at all.

The Senate did take the initiative to pursue this matter. The Senator from Michigan in particular has been a long advocate of truth in labeling and truth in packaging. I say "long," because many times it was quite unpopular, politically and otherwise, for him to pursue with the zeal he did, the objectives now culminating in the conference report before the Senate at this time.

Without him, I do not think, either, that Congress would have tackled this matter as quickly as it did. I hope that it will serve a great and useful purpose for the American consumer. I know that

most of the manufacturers are going not only to abide by it, but they also want it, as a matter of fact.

It is in their interest that we place the objectives of the bill before the consumer when he or she buys the many products involved. We are hoping that the housewife or the buyer—mainly the housewife in this case—will have a little better understanding of what she is getting.

When one considers how complex a bill of this kind can be, he must realize that in the average supermarket today there are from 6,000 to 8,000 different items represented. We corrected many things which we thought were not conducive to the best interests of truth in packaging and labeling, or to the American consumer, and we did this with the help of the industry.

We abolished such things as "huge quarts" and "large half gallons," and so forth, which confuse the buyer. We think that in the long run the American consumer will get a much better opportunity to know where the values are, and where she can shop in the best possible way, particularly in this day when food prices are a significant item in the household budget.

Accordingly, we think that we have accomplished a worthwhile purpose with the bill, and I am sure that everyone in the industry, whether in food or other segments of the packaging industry, will find that this is a bill that all of us can live with for the better protection of the American consumer.

Americans are the best fed people in the world. There is nothing wrong with that. The American housewife, in proportion to her budget percentage-wise, still does not have to spend as much money, even now, as housewives in many other countries in the world to keep her household supplied with food and other necessary items.

Still, we want to be sure that she knows what she is buying, that she knows what the prices are, and that she can make a proper comparison as to what she wants to buy.

The quality of American products, of course, is good and it is getting better as the years go by. We think we have taken a good step forward, as the Senator from Michigan and the Senator from New Hampshire have said—and I repeat—that we will keep taking a long, hard look at the situation to see how it comes out. I think it will all be—as I like to say—on the plus side for the American consumer.

Mr. HART. Mr. President, I consider the Truth-in-Packaging Act to be strong, effective, and historically significant legislation.

In saying this, I realize my remarks may be interpreted as an attempt to justify the efforts of a Senator who originated this legislation and worked 5 long years for its passage.

Nevertheless, it is my honest evaluation that when the lawyers, rather than the lobbyists and press agents, study this legislation, they will come to this same conclusion.

From a historic point of view, I believe this legislation will have much the same

significance regarding Federal responsibility for assisting consumers as the Employment Act of 1946 has had regarding Federal responsibility for economic planning.

The Senate bill declared it a policy of the United States to assist consumers by "facilitating price comparisons." The House very deliberately changed the word "price" to "value," and this change has been concurred in by the Senate. What this means is that the U.S. Congress has now assumed responsibility for assisting consumers by facilitating "value comparisons." This declaration is significant because it enlarges congressional policy to include quality comparison—a component of value. This quality element has vastly greater implications than the more limited concept of price. For instance, it opens the door to consideration of legislation such as grade labeling and Government testing of consumer products.

Historians may consider this declaration of policy to be as significant as the provisions of the legislation itself.

Now, for the benefit of those consumers who have worked so long, hard and with dedication for passage of this legislation, let me outline my reasons for believing that their strivings have brought forth sweet fruit.

First, the mandatory sections:

The Senate bill stated that regulations should be established to provide:

First. That the commodity shall bear a label specifying its identity and the name and place of business of the manufacturer, packer or distributor.

Second. That net quantity statement shall be separately and accurately stated in a uniform location on the principal display panel of the label.

Third. That the net quantity statement, if less than 4 pounds, shall be expressed in ounces or in whole units of pounds, pints or quarts.

Fourth. That the quantity declaration shall appear in a conspicuous and easily legible type in direct contrast with other matter on the package.

Fifth. That the net quantity declaration shall be in a type size established in relationship to the area of the principal display panel.

Sixth. That the declaration of net quantity shall be parallel to the base on which the package usually rests.

Seventh. That no qualifying words or phrases appear in conjunction with a separate statement of net quantity. In other words, the net quantity statement must stand alone.

Eighth. That supplemental statements describing net quantity may be placed at some other point on the package provided that it does not exaggerate the amount of the quantity and is not deceptive.

The final bill contains all of these elements with two strengthening House additions. First, the net weight, if under 4 pounds, will have to be expressed, in most instances, not only in ounces—as required by the Senate bill—but also in pounds and remainder ounces—as required by most States. In effect, the package will now have to carry two net quantity statements—the first

expressed in ounces to facilitate price-per-unit comparisons, and the second expressed in pounds and ounces to assist in maintaining the concept of the pound as a standard weight and measure.

Second, the final bill adopts another strong addition made by the House to provide for labeling in terms of linear measure. This, for instance, could reach the size of paper napkins, tinfoil, wax paper, and related commodities.

Finally, the conference added to the mandatory provisions a subsection which would require a manufacturer claiming a certain number of servings to designate exactly how much each of his servings contained. For instance, a pudding manufacturer proclaiming six servings would be required to state his measure for individual servings—such as a cup or half a cup. This would enable a consumer to more adequately evaluate the claims of competing products.

If this legislation contained nothing but these mandatory provisions alone, it would be a great advance over present law and would be considered significant and worthwhile legislation.

But the legislation does not stop there. It also provides the opportunity for the regulatory agencies—the Department of Health, Education, and Welfare and the Federal Trade Commission—to clean up other confusing and misleading marketing practices on a product line basis.

This legislation provides authority for regulations to do the following:

First. The legislation gives the green light to action for making sense out of such claims as small, medium, large, king size, super, giant economy size, and so forth. Standards can be established so that "large" no longer means "small"—as in toothpaste—so that one manufacturer's "large" is not another's "king size"—as in detergents. In other words, meaning can be put back into size designations so they will be a method of assisting rather than confusing and misleading consumers.

Second. "Cents off" claims and "economy" designations can now be regulated. To the consumer, this means that "economy size" should be more economical for the housewife, not just the manufacturer; that "cents off" should relate to an established price and that a manufacturer should not be allowed to use a "cents off" designation to hide an actual rise in the price of the product if computed on a per ounce basis.

Third ingredient information can now be required on nonfood items, which was not true before passage of this law. Just how important this provision is can be demonstrated by the unsuccessful efforts made in the House for the past 5 years to pass a bill requiring ingredient labeling on cosmetics. Although only one provision in this truth-in-packaging legislation, it would allow the administrator to do just that—require cosmetic packages to list their ingredients.

I believe any of these provisions alone would justify separate acts of Congress. And until very recent months, few would have predicted favorable congressional action on any of these provisions. But in addition, the House added a provision to the legislation not contained in the

Senate bill which may prove more significant than any single other provision of the legislation. It allows the administrator to adopt regulations to stop unnecessary slack fill. The trade speaks of this as nonfunctional slack fill. The consumer speaks of it as all that air in the top of the box.

This may be one provision overlooked by those who have mislabeled this legislation as "only a labeling bill." This is a packaging provision that hits at the core of the greatest number of consumer complaints received by the Antitrust and Monopoly Subcommittee:

Why must we pay food prices for empty space?

If the administrator does his job, future shoppers can buy packages secure in the knowledge that their food dollar is actually buying food, not air and packaging material.

Certainly, up to this point, no one who has read the legislation could argue with any justification that the final bill is a watered down version. While weaker than the bill I introduced, it is certainly a tougher bill than passed originally by the Senate.

The watered down theory is based on the substitution in the final bill for a voluntary rather than mandatory procedure for establishing reasonable weights and measures. And certainly the final version is weaker than the comparable provision in the bill I originally introduced. But how does it compare with the provision as it passed the Senate?

Actually a great deal of emotional content has been added to designations of "mandatory"—as applied to the Senate bill—and "voluntary"—as applied to the House bill. From a practical point of view, the House "voluntary" provision may in the long run prove to be far more effective than the Senate "mandatory" provision. I suggest this for several reasons.

First, the Senate provision was so hedged in with so-called procedural safeguards that, as one administrator expressed it:

I will never be able to do a thing with this section.

It provided for two separate and distinct sets of hearings, one on necessity and one on the proposed regulation itself. It also provided for two separate and distinct court reviews in these two categories. Also, the Senate bill required the administrator to give due regard to the probable effects of such regulations in five distinct areas, all difficult of proof.

This means that substantial evidence would have to be put into the record by the administrator in each of these areas and that a reviewing court could set aside the regulation if the administrator did not meet his burden of proof in any single one of these categories. One can certainly understand why any official charged with the administration of this section would feel somewhat reluctant to commence a proceeding in any product line under these circumstances.

Next, the Senate bill listed a number of exceptions which effectively precluded

from the "reasonable weights and measures" section of the legislation many of the areas in which reasonable weight and measure standards may be most needed. It would have barred any regulation relating to products packed in cans and returnable or reusable glass containers, to candy bars and spices, and to such products as detergents, baby foods, cookies, crackers and breakfast foods to the extent they are packed in the same size container but have different weights because of the varying densities of the products involved.

Third, the Senate bill contained a voluntary procedure which could have further delayed any action for a period of 18 months, and if the voluntary procedure did not work, the agency would have to start from scratch on the product in question.

The final bill—the one we sent to the President—removes all exemptions, all strictures regarding the areas in which the Senate required "due regard" to be given, and all appeal procedures. It directs the Secretary of Commerce, where he feels undue proliferation requires it, to convene a voluntary standard conference at which industry, consumers and other interested groups meet to establish reasonable weights and measures for the commodity or comparable commodities in question.

Therefore, under this legislation, the Secretary of Commerce could initiate the development of more standards in 1 year than the administrator could reasonably be expected to initiate under the Senate provision in a decade. In the event that he is not able to get industry to agree or abide by standards, he is directed to report back to Congress with recommendations for appropriate legislation. Congress already having spoken in regard to the need for reasonable weights and measures, it would react quickly to such a report. If the voluntary procedure does work, of course, standards can be established in a reasonably short time.

If industry does not cooperate it is entirely reasonable to expect that Congress could write and pass effective legislation in this area affecting all commodities more quickly than the agency could establish a standard affecting even one commodity.

On balance, it can reasonably be anticipated that the final voluntary provision in the long run may be able to produce more effective and earlier results than the Senate mandatory provision.

These are my reasons for reporting to the thousands of consumers who have written their Congressmen, to those who have traveled to Washington at their own expense to support passage of truth in packaging, to the consumer-oriented organizations who have worked with tedious dedication for the passage of this legislation, that—contrary to published reports—they have not toiled in vain.

It is my firm belief that their labors have resulted in a historic breakthrough in the area of consumer legislation; that this breakthrough is the beginning of a long and successful program of consumer-assistance legislation; that the truth-in-packaging bill is strong, effective, and meaningful legislation.

True, it is a beginning, not an end—but it is a proud beginning.

If this were not true, then why would the producers and their trade associations have fought with such vigor and expenditure to defeat each and every provision of this legislation. The measure of their failure is the measure of consumer success. It took 5 years of legislative effort. I believe it has been worth every day of it.

Mr. MAGNUSON. Mr. President, I move adoption of the conference report. The conference report was agreed to.

NATIONAL GUARD AND RESERVE UNITS

Mr. STENNIS. Mr. President, the conflicting reports about whether or not a callup of Reserve and National Guard personnel is necessary for the war in Vietnam emphasizes our dependence upon the National Guard and Reserve units of all our military forces and underscores the necessity of keeping them in a high state of readiness at all times.

It has been brought out in testimony before the Senate Preparedness Investigating Subcommittee that the Joint Chiefs have on three separate occasions recommended the callup of selected National Guard and Reserve units to meet requirements brought on by Vietnam.

For some time our Reserve Forces have been in a state of more or less turmoil and uncertainty while reorganization, realignment, and reduction of the numbers and units has been under consideration. The Senate Preparedness Investigating Subcommittee and the Appropriations Committee have repeatedly rejected the idea of a merger of the Army Reserve into the National Guard and have strongly maintained we must support all our Reserve Forces fully and to the extent necessary to make them effective and useful.

The Senate Appropriations Committee this year blocked the proposed disestablishment of three Air National Guard Air Transport units because the committee felt they were needed and essential not only to our present war effort but to our possible future needs.

For some time, the strength and, to some extent, the organization of the Reserve and National Guard have been handled in the appropriation bill.

I call special attention to the recommendations of the Preparedness Investigating Subcommittee that, in the future, inactivations of either U.S. Army Reserve or Army National Guard units, or both, of the magnitude of those inactivated last fall, be undertaken only after consultation with and approval of either the Congress or all appropriate congressional committees. The subcommittee further recommends in the future, all U.S. Army Reserve and Army National Guard components be adequately and properly funded, equipped, supplied, and supported in all essential respects, including PEMA equipment, organizational clothing and equipment, maintenance parts and supplies, technicians, training and school spaces, and construction of facilities. To add emphasis to the disapproval of a merger or

reorganization, the subcommittee specifically recommends that the merger and reorganization of Army Reserve components proposed by the Secretary of Defense be disapproved and that the U.S. Army Reserve and the Army National Guard be continued as separate organizations at such mandatory levels of strength as shall be fixed by the Congress.

There is a need to establish with legislation the intent and desire of the Congress and to provide by law the strength, organization, and level of support that should be given to all our Reserve Forces. It was hoped that a general bill setting forth these things would be considered at this session. However, because of the press of other items and the shortness of time, it now appears that consideration of such a bill will not be possible.

Therefore, again we have taken care of many of these matters in the appropriations bill and, to some extent, in the report of the Preparedness Investigating Committee.

There is agreement among the Senators most directly concerned with the reserve situation that the bill introduced in this session or a similar bill should be considered early in the next session of Congress and that it should be given full hearing and every consideration. For my part, I certainly intend to follow through because I feel that the turmoil, confusion, uncertainty, and question that has plagued the men of our Reserve forces needs to be laid aside and definitely settled in an affirmative and forceful way that will add strength, prestige, and efficiency to our Reserves.

It should now be clear to the Department of Defense that it is the intent and desire of the Congress that our Army and Air Reserves, Army and Air National Guards, and all Reserve forces of all branches should be maintained essentially as they are or as they have been directed to be maintained and that they should be fully supported, adequately equipped, and properly trained to respond in the event they are called to duty.

Through its investigations, the Preparedness Investigating Subcommittee has brought to light many problems of manpower, equipment, and materiel in our Active Forces that makes its absolutely essential that we have adequate reserves on which to fall back in the event we are called upon to meet a real emergency beyond the war in Vietnam. Frankly, I have felt for some time, as have the Joint Chiefs, that we really have needed some of them already.

As draft calls are increased and as many of our units in Europe and elsewhere are drawn down to support the war in Vietnam, it is clear that we need every single National Guard and reservist and their units that are now in the program. It is urgent that we maintain all of them and that they be given our full and adequate support.

The fact that the Senate did not consider a Reserve bill in this session in no way indicates a lack of concern for the Reserves. Failure to take the bill up now indicates only that we feel the most urgent matters have been taken care of

in the appropriations bill and that we are confident the intent and desire of the Congress has been impressed upon the Department of Defense and our military planners to the extent they will fully support those men and units now in the program and that they will be improved with equipment and training necessary to put them in the best possible condition.

The men who serve in the Reserve units perform a great service and deserve great credit for the contribution they are making to our national security. With the knowledge and understanding that this is the case, I urge the Department of Defense to move ahead in their support of these units from the division level on down without further turbulence and uncertainty.

I want to emphasize again that, concerning the bill which has as its purpose to give clearcut legislative authority and determination on the question as to the Reserves and the National Guard, it will be taken up early next year by the Senate Armed Services Committee and will be considered major item by major item on its merits, and such disposition, in an affirmative way, will be made on those important matters as the committee in its judgment thinks best.

There has been no deferment of this matter in any way, except that in the last days of the legislative session this year, the matter of the call up of Reserves did get involved in differences between the two Houses on the Department of Defense appropriation bill. At the same time, the matter of nailing down the strength of the Reserves for the current fiscal year and providing money for maintenance and operation of the Reserves and National Guard during the current fiscal year was taken care of in this appropriation bill.

For that reason, it was possible for this matter to go over until next year. It will be considered early in the year. The chairman of the Senate Armed Services Committee, the gentleman from Georgia [Mr. RUSSELL] and I have talked about this matter, and, without either one of us committing ourselves to any particular major phase of that bill, we agree it is an important legislative matter, hearings will be held, the committee will consider the matter on its merits, and will act on its best judgment.

REPEAL OF PROVISIONS OF LAW CODIFIED IN TITLE 5, SECTION 39, UNITED STATES CODE

Mr. MONRONEY. Mr. President, I ask that the Chair lay before the Senate the amendments of the House of Representatives to S. 1496, and that the Senate proceed to the immediate consideration of the amendments.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1496) to repeal the provisions of law codified in title 5, section 39, United States Code, and for other purposes, which were, to strike out all after the enacting clause and insert:

That (a) section 3342 of title 5, United States Code, relating to the prohibition of details of employees from the field service to the departmental service, is hereby repealed.

(b) The table of contents of subchapter III of chapter 33 of title 5, United States Code, is amended by striking out—

“3342. Details; field to departmental service prohibited.”.

SEC. 2. Section 525 of the Act of June 17, 1930 (46 Stat. 741; 19 U.S.C. 1525), which provides exception to the Department of the Treasury from the restrictions imposed by section 3342 of title 5, United States Code, is hereby repealed.

And to amend the title so as to read: “An Act to repeal section 3342 of title 5, United States Code, relating to the prohibition of employee details from the field service to the departmental service, and for other purposes.”

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oklahoma?

There being no objection, the Senate proceeded to consider the amendments of the House to S. 1496.

Mr. MONRONEY. Mr. President, this legislation was passed by the Senate in 1965 and recently passed the House with an amendment. The amendment is technical in nature, making the bill conform to the recently codified provisions of title 5, United States Code.

The bill repeals an old law prohibiting the detailing of employees from field positions into the District of Columbia. It was recommended by the administration. There has been no opposition expressed to the bill in either House.

Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The motion was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to consider executive business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to the consideration of executive business.

EXECUTIVE REPORTS OF A COMMITTEE

The following favorable reports of nominations were submitted.

By Mr. MONRONEY, from the Committee on Post Office and Civil Service: Seventeen postmaster nominations.

The PRESIDING OFFICER. If there be no further reports of committees, the clerk will state the nomination on the Executive Calendar.

U.S. AIR FORCE

The legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without

objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objections, the nominations are considered and confirmed en bloc.

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

The legislative clerk proceeded to read sundry nominations in the Environmental Science Services Administration.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—U.S. ARMY

The legislative clerk proceeded to read sundry nominations in the Army which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

On request of Mr. MANSFIELD, and by unanimous consent, the Senate resumed the consideration of legislative business.

NATIONAL DAY OF PRAYER

Mr. SIMPSON. Mr. President, the President of the United States has proclaimed today, October 19, as National Day of Prayer in 1966. It was my privilege some months ago to introduce a resolution, cosponsored by Senators ALLOTT, CARLSON, and TYDINGS, requesting the President to make such a proclamation. I am gratified that the President has now acted.

On this day, I am confident that millions of Americans will lift their hearts in prayer to our almighty God. Some will do this privately and others will have the opportunity and privilege of uniting in public worship. Prayer is the greatest unused asset in the world today. God is not allocated on a geographical basis—or a population basis. The supply of His grace, His guidance, His power, and His peace is unlimited—and the greatest tragedy in the world today is that it is for the most part unused. There, at our fingertips, available to each one of us, is all the power of an infinite God, against which no force in the world can stand. And we ignore it far too



Public Law 89-755
89th Congress, S. 985
November 3, 1966

An Act

To regulate interstate and foreign commerce by preventing the use of unfair or deceptive methods of packaging or labeling of certain consumer commodities distributed in such commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fair Packaging and Labeling Act".

Fair Packaging
and Labeling Act.

DECLARATION OF POLICY

SEC. 2. Informed consumers are essential to the fair and efficient functioning of a free market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents and should facilitate value comparisons. Therefore, it is hereby declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods.

PROHIBITION OF UNFAIR AND DECEPTIVE PACKAGING AND LABELING

SEC. 3. (a) It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity (as defined in this Act) for distribution in commerce, or for any person (other than a common carrier for hire, a contract carrier for hire, or a freight forwarder for hire) engaged in the distribution in commerce of any packaged or labeled consumer commodity, to distribute or to cause to be distributed in commerce any such commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to the provisions of this Act and of regulations promulgated under the authority of this Act.

80 STAT. 1296

(b) The prohibition contained in subsection (a) shall not apply to persons engaged in business as wholesale or retail distributors of consumer commodities except to the extent that such persons (1) are engaged in the packaging or labeling of such commodities, or (2) prescribe or specify by any means the manner in which such commodities are packaged or labeled.

80 STAT. 1297

REQUIREMENTS AND PROHIBITIONS

SEC. 4. (a) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity unless in conformity with regulations which shall be established by the promulgating authority pursuant to section 6 of this Act which shall provide that—

(1) The commodity shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor;

(2) The net quantity of contents (in terms of weight, measure, or numerical count) shall be separately and accurately stated in a uniform location upon the principal display panel of that label;

(3) The separate label statement of net quantity of contents appearing upon or affixed to any package—

(A) (i) if on a package containing less than four pounds or one gallon and labeled in terms of weight or fluid measure, shall, unless subparagraph (ii) applies and such statement is set forth in accordance with such subparagraph, be expressed both in ounces (with identification as to avoirdupois or fluid ounces) and, if applicable, in pounds for weight units, with any remainder in

terms of ounces or common or decimal fractions of the pound; or in the case of liquid measure, in the largest whole unit (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart;

(ii) if on a random package, may be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places;

(iii) if on a package labeled in terms of linear measure, shall be expressed both in terms of inches and the largest whole unit (yards, yards and feet, or feet, as appropriate) with any remainder in terms of inches or common or decimal fractions of the foot or yard;

(iv) if on a package labeled in terms of measure of area, shall be expressed both in terms of square inches and the largest whole square unit (square yards, square yards and square feet, or square feet, as appropriate) with any remainder in terms of square inches or common or decimal fractions of the square foot or square yard;

(B) shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package;

(C) shall contain letters or numerals in a type size which shall be (i) established in relationship to the area of the principal display panel of the package, and (ii) uniform for all packages of substantially the same size; and

(D) shall be so placed that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed; and

80 STAT. 1297
80 STAT. 1298

"Random pack-
age."

(4) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving.

(5) For purposes of paragraph (3)(A)(ii) of this subsection the term "random package" means a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights, that is, packages with no fixed weight pattern.

(b) No person subject to the prohibition contained in section 3 shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by subsection (a), but nothing in this subsection or in paragraph (2) of subsection (a) shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.

ADDITIONAL REGULATIONS

SEC. 5. (a) The authority to promulgate regulations under this Act is vested in (A) the Secretary of Health, Education, and Welfare (referred to hereinafter as the "Secretary") with respect to any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and (B) the Federal Trade Commission (referred to hereinafter as the "Commission") with respect to any other consumer commodity.

(b) If the promulgating authority specified in this section finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all the requirements otherwise applicable under section 4 of this Act is impracticable or is not necessary for the adequate protection of consumers, the Secretary or the Commission (whichever the case may be) shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the promulgating authority determines to be consistent with section 2 of this Act.

(c) Whenever the promulgating authority determines that regulations containing prohibitions or requirements other than those prescribed by section 4 are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, such authority shall promulgate with respect to that commodity regulations effective to—

(1) establish and define standards for characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing such commodity, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any commodity;

80 STAT. 1298

80 STAT. 1299

(2) regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;

(3) require that the label on each package of a consumer commodity (other than one which is a food within the meaning of section 201(f) of the Federal Food, Drug, and Cosmetic Act) bear (A) the common or usual name of such consumer commodity, if any, and (B) in case such consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or

52 Stat. 1040.

21 USC 321.

(4) prevent the nonfunctional-slack-fill of packages containing consumer commodities.

For purposes of paragraph (4) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than (A) protection of the contents of such package or (B) the requirements of machines used for enclosing the contents in such package.

(d) Whenever the Secretary of Commerce determines that there is undue proliferation of the weights, measures, or quantities in which any consumer commodity or reasonably comparable consumer commodities are being distributed in packages for sale at retail and such undue proliferation impairs the reasonable ability of consumers to make value comparisons with respect to such consumer commodity or commodities, he shall request manufacturers, packers, and distributors of the commodity or commodities to participate in the development of a voluntary product standard for such commodity or commodities under the procedures for the development of voluntary products standards established by the Secretary pursuant to section 2 of the Act of March 3, 1901 (31 Stat. 1449, as amended; 15 U.S.C. 272). Such procedures shall provide adequate manufacturer, packer, distributor, and consumer representation.

64 Stat. 371.

(e) If (1) after one year after the date on which the Secretary of Commerce first makes the request of manufacturers, packers, and distributors to participate in the development of a voluntary product standard as provided in subsection (d) of this section, he determines that such a standard will not be published pursuant to the provisions of such subsection (d), or (2) if such a standard is published and the Secretary of Commerce determines that it has not been observed, he shall promptly report such determination to the Congress with a statement of the efforts that have been made under the voluntary standards program and his recommendation as to whether Congress should enact legislation providing regulatory authority to deal with the situation in question.

PROCEDURE FOR PROMULGATION OF REGULATIONS

80 STAT. 1299 SEC. 6. (a) Regulations promulgated by the Secretary under section
80 STAT. 1300 4 or section 5 of this Act shall be promulgated, and shall be subject to
judicial review, pursuant to the provisions of subsections (e), (f), and
52 Stat. 1055; (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21
70 Stat. 919. U.S.C. 371 (e), (f), and (g)). Hearings authorized or required for the
promulgation of any such regulations by the Secretary shall be con-
ducted by the Secretary or by such officer or employee of the Depart-
ment of Health, Education, and Welfare as he may designate for that
purpose.

(b) Regulations promulgated by the Commission under section 4 or section 5 of this Act shall be promulgated, and shall be subject to judicial review, by proceedings taken in conformity with the provisions of subsections (e), (f), and (g) of section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 (e), (f), and (g)) in the same manner, and with the same effect, as if such proceedings were taken by the Secretary pursuant to subsection (a) of this section. Hearings authorized or required for the promulgation of any such regulations by the Commission shall be conducted by the Commission or by such officer or employee of the Commission as the Commission may designate for that purpose.

(c) In carrying into effect the provisions of this Act, the Secretary and the Commission are authorized to cooperate with any department or agency of the United States, with any State, Commonwealth, or possession of the United States, and with any department, agency, or political subdivision of any such State, Commonwealth, or possession.

(d) No regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation.

ENFORCEMENT

21 USC 331-337. SEC. 7. (a) Any consumer commodity which is a food, drug, device, or cosmetic, as each such term is defined by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), and which is introduced or delivered for introduction into commerce in violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, shall be deemed to be misbranded within the meaning of chapter III of the Federal Food, Drug, and Cosmetic Act, but the provisions of section 303 of that Act (21 U.S.C. 333) shall have no application to any violation of section 3 of this Act.

(b) Any violation of any of the provisions of this Act, or the regulations issued pursuant to this Act, with respect to any consumer commodity which is not a food, drug, device, or cosmetic, shall constitute

an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act and shall be subject to enforcement under section 5(b) of the Federal Trade Commission Act.

66 Stat. 632.
15 USC 45.
52 Stat. 112.

(c) In the case of any imports into the United States of any consumer commodity covered by this Act, the provisions of sections 4 and 5 of this Act shall be enforced by the Secretary of the Treasury pursuant to section 801 (a) and (b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381).

52 Stat. 1058;
63 Stat. 882.

REPORTS TO THE CONGRESS

SEC. 8. Each officer or agency required or authorized by this Act to promulgate regulations for the packaging or labeling of any consumer commodity, or to participate in the development of voluntary product standards with respect to any consumer commodity under procedures referred to in section 5 (d) of this Act, shall transmit to the Congress in January of each year a report containing a full and complete description of the activities of that officer or agency for the administration and enforcement of this Act during the preceding fiscal year.

80 STAT. 1300
80 STAT. 1301

COOPERATION WITH STATE AUTHORITIES

SEC. 9. (a) A copy of each regulation promulgated under this Act shall be transmitted promptly to the Secretary of Commerce, who shall (1) transmit copies thereof to all appropriate State officers and agencies, and (2) furnish to such State officers and agencies information and assistance to promote to the greatest practicable extent uniformity in State and Federal regulation of the labeling of consumer commodities.

(b) Nothing contained in this section shall be construed to impair or otherwise interfere with any program carried into effect by the Secretary of Health, Education, and Welfare under other provisions of law in cooperation with State governments or agencies, instrumentalities, or political subdivisions thereof.

DEFINITIONS

SEC. 10. For the purposes of this Act—

(a) The term “consumer commodity”, except as otherwise specifically provided by this subsection, means any food, drug, device, or cosmetic (as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use. Such term does not include—

21 USC 321.

(1) any meat or meat product, poultry or poultry product, or tobacco or tobacco product;

(2) any commodity subject to packaging or labeling requirements imposed by the Secretary of Agriculture pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, or the provisions of the eighth paragraph under the heading “Bureau of Animal Industry” of the Act of March 4, 1913 (37 Stat. 832–833; 21 U.S.C. 151–157), commonly known as the Virus-Serum-Toxin Act;

61 Stat. 163.
7 USC 135 note.

(3) any drug subject to the provisions of section 503(b) (1) or 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353 (b) (1) and 356) ;

65 Stat. 648;
55 Stat. 851.

(4) any beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) ; or

(5) any commodity subject to the provisions of the Federal Seed Act (7 U.S.C. 1551-1610).

(b) The term "package" means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include—

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof;

(2) shipping containers or outer wrappings used by retailers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(3) containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 231-233), the Act of March 4, 1915 (38 Stat. 1186, as amended; 15 U.S.C. 234-236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251-256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257-257i).

(c) The term "label" means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

(d) The term "person" includes any firm, corporation, or association.

(e) The term "commerce" means (1) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, and any place outside thereof, and (2) commerce within the District of Columbia or within any territory or possession of the United States not organized with a legislative body, but shall not include exports to foreign countries.

(f) The term "principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

SAVING PROVISION

SEC. 11. Nothing contained in this Act shall be construed to repeal, invalidate, or supersede—

(a) the Federal Trade Commission Act or any statute defined therein as an antitrust Act;

(b) the Federal Food, Drug, and Cosmetic Act; or

(c) the Federal Hazardous Substances Labeling Act.

EFFECT UPON STATE LAW

SEC. 12. It is hereby declared that it is the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the labeling of the net quantity of contents of the package of any consumer commodity covered by this Act which are less stringent than or require information different from the requirements of section 4 of this Act or regulations promulgated pursuant thereto.

EFFECTIVE DATE

SEC. 13. This Act shall take effect on July 1, 1967: *Provided*, That the Secretary (with respect to any consumer commodity which is a

49 Stat. 977.

53 Stat. 1275.

80 STAT. 1301

80 STAT. 1302

38 Stat. 717.

15 USC 58.

52 Stat. 1040.

21 USC 301.

74 Stat. 372.

15 USC 1261 note.

food, drug, device, or cosmetic, as those terms are defined by the Federal Food, Drug, and Cosmetic Act), and the Commission (with respect to any other consumer commodity) may by regulation postpone, for an additional twelve-month period, the effective date of this Act with respect to any class or type of consumer commodity on the basis of a finding that such a postponement would be in the public interest.

52 Stat. 1040.
21 USC 321.

Approved November 3, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 2076 accompanying H. R. 15440
(Comm. on Interstate & Foreign Commerce)
and No. 2286 (Comm. of Conference).

SENATE REPORT No. 1186 (Comm. on Commerce).

CONGRESSIONAL RECORD, Vol. 112 (1966):

May 27, June 1, 2, 8: Considered in Senate.

June 9: Considered and passed Senate.

Oct. 3: Considered and passed House, amended,
in lieu of H. R. 15440.

Oct. 17: House agreed to conference report.

Oct. 19: Senate agreed to conference report.

